SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1919.

No. 467.

THE UNITED STATES OF AMERICA, PLAINTIFF IN ERROR,

vs.

WILLIAM E. ROGERS ET AL.

IN ERROR TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE EIGHTH CIRCUIT.

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Pleas and proceedings in the United States Circuit Court of Appeals for the Eighth Circuit, at the December term, 1918, of said court, before the Honorable William C. Hook, circuit judge, and the Honorable Jacob Trieber, district judge.

Attest:

[SEAL.] E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

Be it remembered that heretofore, to wit, on the twenty-fifth day of May, A. D. 1918, a transcript of record pursuant to a writ of error directed to the District Court of the United States for the District of New Mexico, was filed in the office of the clerk of the United States Circuit Court of Appeals for the Eighth Circuit, in a certain cause wherein The United States of America was plaintiff in error and William E. Rogers et al. were defendants in error, which said transcript as prepared and printed under the rules of the United States Circuit Court of Appeals for the Eighth Circuit, under the supervision of its clerk, is in the words and figures following, to wit:

1 (Citation and Service thereon.)

United States of America,
Eighth Judicial Circuit—ss.

In the District Court of the United States for the Eighth Circuit.

The United States of America: To William E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. C. Mings (Minga) Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps—Greeting:

You are hereby cited and admonished to be and appear in the United States circuit court of appeals for the eighth circuit, at the City of St. Louis, Missouri, sixty days from and after the day this citation bears date, pursuant to a writ of error filed in the clerk's office of the district court of the United States for the District of New Mexico, sitting at Santa Fe, wherein The United States of America is plaintiff in error, and you are defendants in error, to show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Seal
U. S. Dist. Court,
Dist. of New Mex.
1912

Witness, The Honorable Colin Neblett, Judge of the district court of the United States for the district of New Mexico, at Santa Fe, in said district, this 20th day of March, A. D. 1918.

COLIN NEBLETT, Judge.

I hereby acknowledge service of attached citation and praecipe, as to defendants in error W. E. Rogers, V. B. Short, Geo. N. Upham, J. G. Detling, and G. H. Scripps, this 1st day of April, 1918.

J. M. HERVEY.

I hereby acknowledge service of attached citation and praecipe, as to defendants in error H. L. Wilson, Bryan Banta, and J. C. Mings, this 4th day of Apr 1918.

J. H. JACKSON.

I hereby acknowledge service of attached citation and praecipe, this 6 day of April 1918.

HENRY ZAJIC,
WENSLO ZAJIC,
owner of the land.

Memorandum of Clerk:

Here follows an official envelope bearing the corner card of the United States Marshal for the District of New Mexico, Santa Fe, N. M., addressed to "Mary Z. McCrillis, Grand Junction, Colo." and also the following postmarks, etc: "Santa Fe, N. Mex. Mar. 30, 2:30 P. M. Unknown. Name not in Directory. Return to Writer, Unclaimed from Grand Junction, Colo. Grand Junction, Colo. April 6, 1918, 7 P. M. Opened by U. S. Marshal."

Said envelope contains a letter of P. W. Dent, District Counsel, U. S. Reclamation Service, Address El Paso, Texas, addressed to Mary Z. McCrillis, Grand Junction, Colo., with copy of citation and designation, requesting that acknowledgment thereof be made in order to save cost and delay of service by U. S. Marshal.

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2 (Writ of Error and Clerk's Return.)

United States of America—ss.

The President of the United States of America: To the Honorable, the Judge of the District Court of the United States, for the District of New Mexico—Greeting:

Because in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said district court, before you at the October Term, 1917, thereof, between The United States of America and William E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. C. Mings (Minga) Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps a manifest error hath happened, to the great damage of the said, The United States of America, as by its complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be

therein given, that then, under your seal distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States circuit court of appeals, for the eight circuit, together with this writ, so that you have the said record and proceedings aforesaid at the city of St. Louis, Missouri, and filed in the office of the clerk of the United States circuit court of appeals, for the eighth circuit, on or before the 27th day of May, 1918, to the end that the record and proceedings aforesaid being inspected, the United States circuit court of appeals may cause further to be done therein to correct that error, what of right, and according to the laws and customs of the United States should be done.

Witness, the Honorable Edward D. White, Chief Justice of the United States, this 29th day of March, in the year of our Lord, one thousand nine hundred and eighteen, and of the Independence of the United States, the 142nd year. Issued, at office in the city and county of Santa Fe, in said district, with the seal of the district court of the United States for the district of New Mexico, and dated as aforesaid.

Seal
U. S. Dist. Court,
Dist. of New Mex.
1912

WYLY PARSONS,
Clerk United States District Court,
District of New Mexico.

Allowed by:
Colin Neblett, Judge.

Return.

The United States of America,
District of New Mexico—ss.

In obedience to the command of the within writ, I herewith transmit to the United States circuit court of appeals a duly certified transcript of the record and proceedings in the within entitled case, with all things concerning the same.

In witness whereof, I hereunto subscribe my name, and affix the seal of the District Court of the United States for the district of New Mexico, at the city and county of Santa Fe, in said district, this 22nd day of May, 1918.

WYLY PARSONS, Clerk.
By .....
Deputy Clerk.

District of New Mexico—ss.

The plaintiff in error, having served this writ, by lodging a copy thereof in the clerk's office where the record remains, and having given the security required by law, on the issuing of the citation, within the time required by law, this writ therefore becomes a supersedeas.

In witness whereof, I hereunto subscribe my name, and affix the seal of the District Court of the United States for the district of New Mexico, at the city and county of Santa Fe, in said district, this 2nd day of May, A. D. 1918.

Seal
U. S. Dist. Court,
Dist. of New Mex.
1912

WYLY PARSONS, Clerk.

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3 (Petition in Condemnation, filed January 18, 1915.)

In the District Court of the United States for the District of New Mexico.

United States of America, Plaintiff,
No. 361. vs. Law.

Charles A. Bigelow; Nathan V. Cook; V. B. Short, whose full first name is to plaintiff unknown; Benjamin F. Pearman; E. C. Cook, whose full first name is to plaintiff unknown; S. F. Miles, whose full first name is to plaintiff unknown; Herbert Litton; George N. Upham; Bryan Banta; John Fidell; John Carothers and Benjamin D. Conkling; Mary Fidell; Annie D. McHenry; John H. Hayhurst; Don F. Lyman; R. W. Rankin, whose full first name is to plaintiff unknown; Henry A. Bock; Henry Zajic; John W. Sanner; E. H. Vance, whose full first name is to plaintiff unknown; Curtis V. Yoh; C. E. Vaughn, whose full first name is to plaintiff unknown; Herbert E. Steadman; J. J. Alexander, whose full first name is to plaintiff unknown; Clara E. Courtney; C. Bert Smith; William E. Rogers; Mary Z. McCrillis; Frank Edwards; I. C. Roberts, whose full first name is to plaintiff unknown; J. G. Detling, whose full first name is to plaintiff unknown; Margie L. High-

smith; G. H. Scripps, whose full first name is to plaintiff unknown; E. F. Hardwick, whose full first name is to plaintiff unknown; Mrs. Marshall K. Holt; Arthur A. Kaiser; W. B. Clark, whose full first name is to plaintiff unknown; Anna C. Bentley; William L. Rogers; H. L. Wilson, whose full first name is to plaintiff unknown; and J. C. Mings, whose full first name is to plaintiff unknown.

Plaintiff, United States of America, for cause of action against above named defendants, states:

1. That each and all of the defendants herein are residents of the State of New Mexico except the following:

That defendant V. B. Short is a non-resident of the State of New Mexico and resides at 315 Rock St., Little Rock, Ark.; that defendant S. F. Miles is a non-resident of the State of New Mexico and resides at Harrisonville, Mo.; that defendant George N. Upham is a non-resident of the State of New Mexico and resides at Coffeyville, Kans.; that defendant Bryan Banta is a non-resident of the State of New Mexico and resides at Stratford, Okla.; that defendant John Fidell is a non-resident of the State of New Mexico and resides at Chicopee, Kans.; that defendant Anna C. Bentley is a non-resident of the State of New Mexico and resides at Stirling, Kans.; that defendant Annie D. McHenry is a non-resident of the
4 State of New Mexico and resides at 301 Lafayette St., St. Joseph, Mo.; that defendant William L. Rogers is a non-resident of the State of New Mexico and resides at Pilot Point, Texas; that defendant R. W. Rankin is a non-resident of the State of New Mexico and resides at Stronghurst, Ia.; that defendant Henry Zajic is a non-resident of the State of New Mexico and resides at Hollywood, Kans.; that defendant John W. Sanner is a non-resident of the State of New Mexico and resides at Decatur, Ill.; that defendant W. B. Clark is a non-resident of the State of New Mexico and resides at El Paso, Texas.; that defendant E. H. Vance is a non-resident of the State of New Mexico and resides at Zybach, Texas; that defendant C. E. Vaughn is a non-resident of the State of New Mexico and resides at Guide Rock, Nebr.; that defendant S. J. Alexander is a non-resident of the State of New Mexico and resides at Laddonia, Mo.; that defendant Clara E. Courtney is a non-resident of the State of New Mexico and resides at Canon City, Colo.; that defendant Mary Z. McCrillis is a non-resident of the State of New Mexico and resides at Grand Junction, Colo.; that defendant I. C. Roberts is a non-resident of the State of New Mexico and resides at Lenexa, Kans.;

that defendant J. D. Detling is a non-resident of the State of New Mexico and resides at Ansonia, Ohio; that defendant G. H. Scripps is a non-resident of the State of New Mexico and resides at Rushville, Ill.; that defendant Mrs. Marshall K. Holt is a non-resident of the State of New Mexico and resides at Los Angeles, Cal.; that defendant J. C. Mings is a non-resident of the State of New Mexico and resides at Galesburg, Ill.; that defendant H. L. Wilson is a non-resident of the State of New Mexico and resides at Albaugh, Cal.

That defendants Benjamin F. Pearman, Herbert Litton, John Carothers, Benjamin D. Conkling, Mary Fidell, John H. Mayhurst, Curtis V. Yoh, Frank Edwards, and each of them, are non-residents of the State of New Mexico, and the whereabouts and places of residence of said defendants, and each of them, are unknown to plaintiff.

2. That under and pursuant to the Act of Congress approved June 17, 1902, which said Act appears in Volume 32 of the Statutes at Large of the United States, at page 388, and is hereby referred to, and the various acts of Congress supplemental thereto and amendatory thereof, which are hereby referred to, the Secretary of the Interior heretofore, to-wit, on or about Dec. 18, 1905, caused to be purchased of the Pecos Irrigation Co. an irrigation system known as the Carlsbad project, located in the County of Eddy and State of New Mexico, consisting of reservoirs, dams, controlling gates, canals and other necessary appurtenant works, said project being designed for the storage, diversion and development of the waters of the Pecos River and its tributaries; that since the purchase as aforesaid the said Carlsbad project has been maintained and operated by the United States for the benefit of the water users under said system; that from examinations, surveys and investigations theretofore made and caused to be made by him, the said Secretary of the Interior prior to August 25, 1911, determined that additional water storage facilities for said project were necessary, practicable and advisable, and ascertained that there is sufficient additional arid land in said County and State tributary to said irrigation project which may be supplied with the additional water stored by said additional works at a cost which will render the additional works feasible and return to the reclamation fund the cost of said works, and on to-wit, August 25, 1911, did determine to proceed with the work of constructing said additional works as a part of the said general system of irrigation and did find satisfactory all of the other conditions of said project as regards the feasibility thereof.

3. That the irrigation project heretofore mentioned comprehends and includes what is commonly known as the McMillan Dam and Reservoir and the Avalon Dam and Reservoir and the impounding therein of the waters of the Pecos River and its tributaries for the purpose of irrigating about 25,000 acres of land in said County of Eddy and State of New Mexico.

3½. That on to-wit, Sept. 19, 1911, the Secretary of the Interior of the United States caused to be commenced the construction of said additional works determined upon as aforesaid by him as necessary and feasible for the purposes aforesaid, and the same were completed on or about the 19th day of April, 1912;

3¾. That for the purpose of carrying out the provisions of said Acts of Congress of June 17, 1902, and the other Acts of Congress amendatory thereof and supplementary thereto, hereinbefore referred to, and in order to provide for the storage of additional waters to be impounded by said additional works, and for other necessary purposes connected with said project, it became necessary, and the Secretary of the Interior determined that it was necessary, to acquire certain lands and real estate of the said defendants situate in the County of Eddy and State of New Mexico, and at the date of the completion of said additional works, to-wit, April 19th, 1912, the said lands of said defendants hereinafter described were flooded and thereby appropriated by the Government of the United States under authority of the said Acts of Congress aforesaid for said necessary purposes, but no compensation therefor has been up to this time paid for the said lands so appropriated as aforesaid by the Secretary of the Interior.

4. That there is now available in the Reclamation fund of the United States the necessary funds to pay any and all damages that may be awarded to said defendants, and each of them, on account of the taking and appropriation by plaintiff of the lands and real estate hereinafter described as hereinbefore set forth.

5. That on Dec. 19, 1914, the Secretary of the Interior of the United States, under the said Act of Congress of June 17, 1902, requested the Attorney General of the United States to cause proceedings to be commenced for the condemnation of said lands and real estate hereinafter described for the purposes aforesaid and so appropriated by the United States on the said April 19, 1912; and thereupon, on the 22nd
6 day of December, 1914, the Attorney General of the United States instructed the United States Attorney

for the District of New Mexico to commence such condemnation proceedings for the said purpose, and this proceeding is instituted under the instructions from the Attorney General of the United States.

6. That all of the tracts of land and real estate hereinafter particularly described lie within the following described sections of land in Eddy County, N. M., to-wit: Sections numbers twenty-five (25) and thirty-six (36) in Township eighteen (18) south of Range twenty-six (26) east of the New Mexico Principal Meridian; Sections numbers one (1), two (2), twelve (12), thirteen (13), fourteen (14), twenty-three (23), twenty-four (24), twenty-six (26), twenty-seven (27) and thirty-four (34) in Township nineteen (19) south of Range twenty-six (26) east of the N. M. P. M.; Sections numbers one (1), two (2) and three (3) in Township (20) south of Range twenty-six (26) east; Sections numbers twenty-nine (29), thirty (30), thirty-one (31) and thirty-two (32) in Township eighteen (18) south of Range twenty-seven (27) east; Sections numbers six (6), seven (7) and eighteen (18) in Township nineteen (19) south of Range twenty-seven (27) east.

7. That defendant Charles A. Bigelow is the owner of the following described tract of land, to-wit:

The east one-half of the southeast quarter, (SE¼) of the southwest quarter (SW¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east of the New Mexico Principal Meridian, containing twenty (20) acres.

That plaintiff has attempted to purchase said tract last above described but has been unable to do so as plaintiff and said defendant cannot agree upon the proper compensation to be paid therefore.

8. That defendant Nathan V. Cook is the owner of the following described tract of land, to-wit:

A tract of land in the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) East, N. M. P. M.; thence north eighty-nine degrees (89) and fifty-four (54) minutes west four hundred ninety-seven and four-tenths (497.4) feet to initial point in flow line of McMillan Reservoir at elevation thirty-two hundred seventy-

two and six-tenths (3272.6) feet above mean sea level marked by pipe number one (1); thence north four (4) degrees and thirty-seven (37) minutes west four hundred seventeen and two-tenths (417.2) feet to pipe number two (2); thence north nine (9) degrees and fifty-eight (58) minutes east five hundred eighty-three and three-tenths (583.3) feet to pipe number three (3); thence north fifty-three (53) degrees and forty (40) minutes east five hundred forty-four and eight-tenths (544.8) feet to pipe number four (4), it being also the center of the above mentioned section; thence south twenty-four (24) minutes west thirteen hundred fourteen and six-tenths
7 (1314.6) feet to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said section, being the point of beginning. Containing twelve and seventy-five hundredths (12.75) acres.

That plaintiff has attempted to purchase said tract last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

9. That defendant E. C. Cook is the owner of the following described two tracts of land:

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-seven (27) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north twenty-four (24) minutes east two hundred seven and two-tenths (207.2) feet along subdivision line to point in flow line of McMillan Reservoir at elevation thirty-two hundred seventy-two and six-tenths (3272.6) feet above mean sea level marked by pipe number eight (8); thence south thirty-nine (39) degrees and three (3) minutes west two hundred sixty-six and five tenths (266.5) feet to point on Section line marked by pipe number seven (7); thence south eighty-nine (89) degrees fifty-four (54) minutes east one hundred sixty-six and eight-tenths (166.8) feet on section line to point of beginning as above described. Containing forty-hundredths (.40) acres.

A tract of land in the northwest quarter (NW¼) of the northeast quarter (NE¼) of Section thirty-four (34) Township nineteen (19) south of Range twenty-six (26) East, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the northwest quarter (NW¼) of the northest quarter (NE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-four (24) minutes west twelve hundred sixty-two and four-tenths (1262.4) feet along subdivision line to pipe number nineteen (19); thence south thirteen (13) degrees and thirty-three (33) minutes west fifty-one and seven-tenths (51.7) feet to pipe number eighteen (18); thence north eighty-nine (89) degrees and fifty-four (54) minutes west seven hundred ninety-five and nine-tenths (795.9) feet along subdivision line to pipe number six (6); thence north twenty-six (26) degrees and thirteen (13) minutes east fourteen hundred sixty-two and seven-tenths (1462.7) feet to pipe number seven (7); thence south eighty-nine (89) degrees and fifty-four (54) minutes east one hundred sixty-six and eight-tenths (166.8) feet on section line to point of beginning as above described. Containing fourteen and forty-five hundredths (14.45) acres.

That the plaintiff has attempted to purchase said two tracts last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

10. That defendant Don F. Lyman is the owner of the following described three tracts of land, to-wit:

8 A tract of land in the northwest quarter (NW¼) of the northeast quarter (NE¼) of Section twenty-three (23) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northwest quarter (NW¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and forty (40) minutes west three hundred ninety-four (394) feet on subdivision line to pipe number thirty-four (34); thence north eight (8) degrees and thirty-seven (37) minutes east six hundred forty-four and nine-tenths (644.9) feet to pipe number thirty-five (35); thence north seventy-eight (78) degrees and fifty-nine (59) minutes east three hundred four and one-tenth (304.1) feet to pipe number thirty-six (36); thence south six hundred ninety-four and one-tenth (694.1) feet on subdivision line to the point beginning as above described. Containing five and twenty-two hundredths (5.22) acres.

A tract of land in the northeast quarter (NE¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northeast quarter (NE¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north six hundred ninety-four and one-tenth (694.1) feet on subdivision line to pipe number thirty-six (36); thence north seventy-five (75) degrees east two hundred seventy-four and two-tenths (274.2) feet to pipe number thirty-seven (37); thence north twenty-seven (27) degrees and forty-four (44) minutes east six hundred forty-one and two-tenths (641.2) feet to pipe number thirty-eight (38); thence north eighty-nine (89) degrees and twenty-nine (29) minutes east seven hundred sixty-five and eight-tenths (765.8) feet on section line between sections fourteen (14) and twenty-three (23) in township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the northeast corner of said Section twenty-three (23); thence south on section line between sections twenty-three (23) and twenty-four (24) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., thirteen hundred and thirty-one and ninetenths (1331.9) feet to the southeast corner of northeast quarter (NE¼) of the northeast quarter (NE¼) of said Section twenty-three (23); thence south eighty-nine (89) degrees and forty (40) minutes west thirteen hundred twenty-eight and one-tenth (1328.1) feet on subdivision line to the point of beginning as above described. Containing thirty-four and forty-hundredths (34.40) acres.

A tract of land in the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section fourteen (14), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of Section fourteen (14), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and twenty-nine (29) minutes west seven hundred sixty-five and eight-tenths (765.8) feet on section line
9 between Sections fourteen (14) and twenty-three (23) in township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to pipe number thirty-eight; thence north twenty-two (22) degrees and fifty-nine (59) minutes east, four hundred (400) feet to pipe number thirty-nine

(39); thence south seventy-one (71) degrees and forty-seven (47) minutes east six hundred and thirty-nine and four-tenths (639.4) feet to point on section line between Sections thirteen (13) and fourteen (14) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., marked by pipe number forty (40); thence south fourteen (14) minutes east one hundred sixty-two and four-tenths (162.4) feet on section line between Sections thirteen (13) and fourteen (14) in Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing four and thirty-six hundredths (4.36) acres.

That the plaintiff has attempted to purchase said three tracts last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

11. That the defendant Henry A. Bock is the owner of the following described three tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section thirteen (13) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the south one-quarter (¼) corner of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-nine (59) minutes east four hundred sixteen (416) feet on section line between Sections thirteen (13) and twenty-four (24) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to pipe number sixty (60); thence north five (5) degrees and twenty-one (21) minutes west twelve hundred twenty-three (1223) feet; thence north fifty-five (55) degrees and thirty-four (34) minutes east one hundred ninety-two and nine-tenths (192.9) feet to pipe number sixty-two (62); thence south eighty-nine (89) degrees and fifty-nine (59) minutes west four hundred seventy and two-tenths (470.2) feet on subdivision line to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said Section thirteen (13); thence south fourteen (14) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the point of beginning as above described. Containing nine and forty-seven hundredths acres (9.47).

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section thirteen (13), Town-

ship nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section (13) of Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-nine (59) minutes east four hundred seventy and two-tenths (470.2) feet on subdivision line to pipe number sixty-two (62); thence north fifty-five (55) degrees and thirty-four (34) minutes east five hundred seven and one-tenth (507.1) feet; thence north twenty-three (23) degrees and seven (7) minutes east five hundred (500) feet; thence north sixty-four (64) degrees and fifty-two (52) minutes east two hundred fifty-four and six-tenths (254.6) feet to pipe number sixty-five (65); thence north fourteen (14) minutes west four hundred seventy-four and nine-tenths (474.9) feet on subdivision line to the northeast corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of said section; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and four-tenths (1318.4) feet on subdivision line to the center of said section; thence south fourteen (14) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the point of beginning as above described. Containing thirty and ninety-hundredths (30.90) acres.

A tract of land in the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section thirteen (13) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south fourteen (14) minutes east on subdivision line four hundred seventy-four and nine-tenths (474.9) feet on subdivision line to pipe number sixty-five; thence north sixty-four (64) degrees and fifty-two (52) minutes east nine hundred forty-five and four-tenths (945.4) feet; thence north thirty-three (33) degrees and forty-eight (48) minutes east eighty-six and nine-tenths (86.9) feet to pipe number sixty-seven (67); thence south eighty-nine (89) degrees and fifty-nine (59) minutes west nine hundred two and four-tenths (902.4) feet on subdivision line to the point of beginning as above described. Containing four and forty-four hundredths (4.44) acres.

That plaintiff has attempted to purchase said three tracts of land last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

12. That said defendant Herbert E. Steadman is the owner of the following described three tracts of land, to-wit:

A tract of land in the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twelve (12) Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-four (24) minutes east two hundred thirty-six and three-tenths (236.3) feet on section line between Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., and Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to point marked by pipe number sixty-two (62); thence north fifty-eight (58) degrees and fifty-seven (57) minutes west four hundred fifty-eight and four-tenths (458.4) feet to pipe number sixty-three (63); thence south eighty-nine (89) degrees and fifty-
11 six (56) minutes east three hundred ninety-one (391) feet on subdivision line to point of beginning as above described. Containing one and six-hundredths (1.06) acres.

A tract of land in the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-six (56) minutes west nine hundred forty-nine (949) feet on subdivision line to pipe number sixty-four (64); thence north fourteen (14) degrees and fifty (50) minutes west five hundred fifteen (515 feet to pipe number sixty-five (65); thence south eighty-nine (89) degrees and twenty-seven (27) minutes west two hundred forty-six and one-tenth (246-1) feet to pipe number sixty-six (66); thence north thirty-four (34) minutes west eight hundred thirty-five (835) feet to the northwest corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of said section; thence south

eighty-nine (89) degrees and fifty-two (52) minutes east thirteen hundred twenty-six and two-tenths (1326.2) feet on subdivision line to east one-quarter (¼) corner of said section; thence south twenty-four (24) minutes east thirteen hundred twenty-six and five-tenths (1326.5) feet on section line between Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M. and Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing thirty-six and forty-five hundredths (36.45) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section twelve (12) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south thirty-four (34) minutes east eight hundred thirty-five (835) feet on subdivision line to pipe number sixty-six (66); thence north sixty-eight (68) degrees and fifty-one (51) minutes west two hundred seventy-eight and two-tenths (278.2) feet to pipe number sixty-seven (67); thence north nine (9) degrees and twelve (12) minutes west seven hundred forty-three and two-tenths (743.2) feet to pipe number seventy (70); thence south eighty-nine (89) degrees and fifty-two (52) minutes east three hundred seventy and three-tenths (370.3) feet on subdivision line to the point of beginning as above described; containing five and sixty-hundredths (5.60) acres.

That plaintiff has attempted to purchase said three tracts last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

13. That said defendant C. Bert Smith is the owner of the following described three tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section six (6), Town-
12 ship (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east one hundred forty (140) feet

on section line between Sections six (6) and seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; to pipe number eighty-eight (88); thence north eighteen (18) degrees and thirty (30) minutes west four hundred fifty-four (454) feet to pipe number eighty-nine (89); thence south twenty-four (24) minutes east four hundred twenty-nine (429) feet on section line between Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing twenty-five hundredths (.25) acres.

A tract of land in the southeast quarter (SE¼) of the southeast (SE¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico, Principal Meridian, described as follows:

Beginning at the southeast corner of Section (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north twenty-four (24) minutes west four hundred twenty-nine (429) feet on section line between Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., and Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to pipe number eighty-nine (89); thence north eighteen (18) degrees and thirty (30) minutes west two hundred two (202) feet; thence north fifteen (15) degrees and thirty-eight (38) minutes west seven hundred thirty-three and three-tenths (733.3) feet to pipe number ninety-one (91); thence north eighty-nine (89) degrees and forty-four minutes (44) west ten hundred seventy-eight and three-tenths (1078.3) feet on subdivision line to the northwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of said Section one (1); thence south twenty (20) minutes east thirteen hundred twenty-five and six-tenths (1325.6) feet to the southwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of said Section one (1); thence south eighty-nine (89) degrees and forty (40) minutes east, thirteen hundred thirty-four and six-tenths (1334.6) feet on section line between Sections one (1) and twelve (12), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described, containing thirty-six and sixteen-hundredths (36.16) acres.

A tract of land in the northeast quarter (NE¼) of the southeast (SE¼) of Section one (1), Township nineteen (19)

south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northeast quarter ($NE\frac{1}{4}$) of the southeast quarter ($SE\frac{1}{4}$) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and forty-four (44) minutes east ten hundred seventy-eight and three-tenths (1078.3) feet on subdivision line to pipe number ninety-one (91); thence north fifteen (15) degrees and
13 thirty-eight (38) minutes west six hundred sixty-six and seven-tenths (666.7) feet; thence north twenty-nine (29) degrees and forty-three (43) minutes east seven hundred eighty-six and eight-tenths (786.8) feet to pipe number ninety-three (93); thence north eighty-nine (89) degrees and forty-eight (48) minutes west twelve hundred ninety-six and five-tenths (1296.5) feet on subdivision line to the northwest corner of the northeast quarter ($NE\frac{1}{4}$) of the southeast quarter ($SE\frac{1}{4}$) of said Section one (1); thence south twenty (20) minutes east thirteen hundred twenty-five and six-tenths (1325.6) feet on subdivision line to the point of beginning as above described. Containing twenty-nine and sixteen-hundredths (29.16) acres.

That plaintiff has attempted to purchase said three tracts last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

14. That said defendant William E. Rogers is the owner of the following described three tracts of land, to-wit:

A tract of land in the northwest quarter ($NW\frac{1}{4}$) of the southwest quarter ($SW\frac{1}{4}$) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter ($\frac{1}{4}$) corner of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) and forty-eight (48) minutes east thirteen hundred thirty-one and eight-tenths (1331.8) feet on subdivision line to the northeast corner of the northwest quarter ($NW\frac{1}{4}$) of the southwest quarter ($SW\frac{1}{4}$) of said section; thence south fifteen (15) minutes east eight hundred fifty-six and one-tenth (856.1) feet on subdivision line to pipe number ninety-one (91); thence south sixty-four (64) degrees and thirty-two (32) min-

utes west sixty-five and three-tenths (65.3) feet to pipe number ninety-two (92); thence south seventy-two (72) degrees and twenty-two (22) minutes west seven hundred sixty-four and six-tenths (764.6) feet to pipe number ninety-three (93); thence north twelve (12) degrees and twenty-five (25) minutes west nine hundred thirty-two (932) feet to pipe number ninety-four (94); thence north fifty-eight (58) degrees and sixteen (16) minutes west four hundred six and six-tenths (406.6) feet to the point of beginning as above described. Containing twenty-one and sixteen-hundredths (21.16) acres.

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six east (26) New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section one (1), Township nineteen (19) south of Range twenty-six (26) west, N. M. P. M.; thence north twelve (12) minutes west six hundred twenty and six-tenths (620.6) feet on section line between Sections one (1) and two (2), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to pipe number ninety-eight; thence north fifty-four (54) degrees and thirty-four (34) minutes east twelve hundred eight and five-tenths (1208.5) feet to pipe number ninety-nine (99); thence south eighty-nine (89) degrees and fifty-four (54) minutes east three hundred forty-three and seven-tenths (343.7) feet on subdivision line to the northeast corner
14 of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said Section one (1); thence north eighty-nine (89) degrees and forty-eight (48) minutes west thirteen hundred thirty-one and eight-tenths (1331.8) feet on subdivision line to the point of beginning as above described. Containing thirty-two and five-hundredths (320.5) acres.

A tract of land in the northwest quarter (NW¼) of the northwest quarter (NW¼ of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northwest quarter (NW¼) of the northwest quarter (NW¼) of Section one (1); thence south fifteen (15) minutes east thirteen hundred twenty-three and two-tenths (1323.2) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said section one (1), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-four (54)

minutes west three hundred forty-three and seven-tenths (343.7) feet on subdivision line to pipe number ninety-nine (99); thence north fifty-nine (59) degrees and thirty-one (31) minutes east three hundred ninety-eight and one-tenth (398.1) feet to pipe number one hundred (100); thence south fifteen (15) minutes east two hundred three and six-tenths (203.6) feet on subdivision line to the point of beginning as above described. Containing eighty-hundredths (.80) acres.

That plaintiff has attempted to purchase said three tracts last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation therefor.

15. That defendant Margie L. Highsmith is the owner of the following described tract of land, to-wit:

The east half ($E\frac{1}{2}$) of the northeast quarter ($NE\frac{1}{4}$) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, and north half ($N\frac{1}{2}$) of the northwest quarter ($NW\frac{1}{4}$) of Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; and south half ($S\frac{1}{2}$) of southwest quarter ($SW\frac{1}{4}$); the northwest quarter ($NW\frac{1}{4}$) of the southwest quarter ($SW\frac{1}{4}$) and the southwest quarter ($SW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) of Section thirty-one (31), Township eighteen (18) south of Range twenty-seven (27) east, New Mexico Principal Meridian, containing three hundred fourteen and ninety-two hundredths (314.92) acres.

That plaintiff has attempted to purchase said tract last above described but has been unable to do so as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

16. That said defendant Arthur A. Kaiser is the owner of the following described three tracts of land, to-wit:

The west half ($W\frac{1}{2}$) of the southwest quarter ($SW\frac{1}{4}$) of Section twenty-nine (29), Township eighteen (18) south of Range twenty-seven (27) east, New Mexico Principal Meridian.

15 A tract of land in the northwest ($NW\frac{1}{4}$) of the northwest quarter ($NW\frac{1}{4}$) of Section thirty-two (32), Township eighteen (18) south Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of Section thirty-two (32), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M.; thence north eighty-eight (88) degrees degrees and twenty-one (21) minutes east, thirteen hundred seventeen and seven-tenths (1317.7) feet on section line between Sections twenty-nine (29) and thirty-two (32), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., to the northeast corner of the northwest quarter (NW¼) of the northwest quarter (NW¼) of said Section thirty-two (32); thence south thirty-seven (37) minutes west thirteen hundred thirty and two-tenths (1330.2) feet to the southeast corner of the northwest quarter (NW¼) of the northwest quarter (NW¼) of said section, on subdivision line; thence south eighty-eight (88) degrees and forty-five (45) minutes west eleven hundred forty-one and two-tenths (1141.2) feet on subdivision line to pipe number one hundred forty-five (145); thence north forty-seven (47) degrees and fifty-five (55) minutes eighty-seven and eight-tenths (87.8) feet; thence north thirty-three (33) degrees and fifty (50) minutes west one hundred ninety-four feet (194) to pipe number one hundred forty-two (142); thence north thirty-three (33) minutes east eleven hundred (1100) feet on section line between Sections thirty-one (31) and thirty-two (32), Township eighteen (18) south, Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing thirty-nine and fifty-seven hundredths (39.57) acres.

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section twenty-nine (29), Township eighteen (18) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section twenty-nine (29), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M.; thence north eighty-eight (88) degrees and forty-six (46) minutes east thirteen hundred eighteen and eight-tenths (1318.8) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said section; thence north four (4) minutes east six hundred sixty-one and seven-tenths (661.7) feet on subdivision line to pipe number twenty-two (22); thence north eighty-two (82) degrees and fifty-three (53) minutes west six hundred two and four-tenths (602.4) feet to pipe number twenty-three (23); thence south fifty-seven (57) degrees and sixteen (16) minutes west three hundred sixty-three and eight-tenths (363.8) feet to pipe number twenty-four (24); thence south two (2) degrees and fifteen

(15) minutes west two hundred sixty-four (264) feet to pipe number twenty-five (25); thence south eighty-four (84) degrees and one (1) minute west four hundred eight and two-tenths (408.2) feet to pipe number twenty-six (26); thence south two hundred sixty-one (261) feet on section line between Sections twenty-nine (29) and thirty (30) in Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing sixteen and forty-six hundredths (16.46) acres.

That plaintiff has attempted to purchase said three tracts of land last above described but has been unable to do as plaintiff and defendant cannot agree upon the proper compensation to be paid therefor.

17. That said defendants V. B. Short and H. L. Wilson are the owners of or claim some interest in the following described three tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the south one-quarter (¼) corner of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four (54) minutes east thirteen hundred twenty-five (1325) feet to the southwest corner of the southeast quarter SE¼) of the southeast quarter (SE¼) of said section; thence north twenty-four minutes (24) east one hundred fifty-six and nine-tenths (156.9) feet to intersection with the west embankment of Lake McMillan; thence north thirty-five (35) degrees and two (2) minutes west twelve hundred sixty-eight and four-tenths (1268.4) feet along center line of said embankment; thence north forty-six (46) degrees and thirty-four (34) minutes east one hundred eighty-two and five-tenths (182.5) feet to intersection with subdivision line marked by pipe number thirteen (13); thence north eighty-nine degrees (89) and fifty-four (54) minutes west seven hundred ten (710) feet to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said section; thence south twenty-four (24) minutes east thirteen hundred fourteen and six-tenths (1314.6) feet to point of beginning as above described. Containing twenty-seven and forty-nine hundredths (27.49) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Town-

ship nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four (54) minutes east seven hundred ten (710) feet along subdivision line to pipe number thirteen (13); thence north forty-six (46) degrees and thirty-four (34) minutes east five hundred seventeen and five-tenths (517.5) feet along flow line of McMillan Reservoir at elevation thirty-two hundred sixty-five and six tenths (3265.6) feet above mean sea level; thence north seventeen (17) degrees and forty-six minutes (46) east eight hundred (800) feet; thence north three (3) degrees and forty-two (42) minutes west one hundred ninety-seven and three-tenths feet (197.3) to point in subdivision line marked by pipe number sixteen (16); thence north eighty-nine (89) degrees and fifty-four (54) minutes west thirteen hundred eight (1308) feet along subdivision line to the center of said section; thence south twenty-four (24) minutes west thirteen hundred fourteen and six-tenths (1314.6) feet to point of beginning as above described. Containing thirty-two and sixty-four hundredths (32.64) acres.

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east,
17 New Mexico Principal Meridian, described as follows:

Beginning at the center of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four (54) minutes east thirteen hundred eight (1308) feet along subdivision line to a point in the flow line of McMillan Reservoir at elevation thirty-two hundred sixty-five and six-tenths (3265.6) feet above mean sea level marked by pipe number sixteen (16); thence north three (3) degrees and forty-two minutes (42) west ten hundred two and seven-tenths (1002.7) feet; thence north thirteen (13) degrees and thirty-three (33) minutes east three hundred fourteen and four-tenths (314.4) to point in subdivision line marked by pipe number eighteen (18); thence north eighty-nine (89) degrees and fifty-four (54) minutes west seven hundred ninety-five and nine-tenths (795.9) feet along subdivision line to point in flow line of McMillan Reservoir at elevation thirty-two hundred seventy-two and six-tenths (3272.6) feet above mean sea level marked by pipe number six (6); thence south

thirty-three (33) degrees and thirty-five (35) minutes west nine hundred forty-four and three-tenths (944.3) feet to point in subdivision line marked by pipe number five (5); thence south twenty-four (24) minutes west five hundred twenty-four and five-tenths (524.5) feet to point of beginning as above described. Containing thirty-two and fifteen-hundredths (32.15) acres.

18. That said defendant Benjamin F. Pearman is the owner of the following described two tracts of land, to-wit:

A tract of land in the northeast quarter (NE¼) of the northeast quarter (NE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (NE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-four minutes (24) west twelve hundred sixty-two and four-tenths (1262.4) feet to point in flow line of McMillen Reservoir at elevation thirty-two hundred sixty-five and six-tenths (3265.6) feet above mean sea level marked by pipe number nineteen (19); thence north thirteen (13) degrees and thirty-three (33) minutes east five hundred thirty-three and nine-tenths (533.9) feet; thence north sixteen (16) degrees and forty (40) minutes east seven hundred (700) feet; thence north fifty-five (55) degrees east one hundred twenty-five (125) feet to point in subdivision line marked by pipe number twenty-two (22); thence north eighty-nine (89) degrees and fifty-four (54) minutes west four hundred twenty (420) feet to point of beginning as above described. Containing three and three-tenths (3.3) acres.

A tract of land in the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine de-
18 grees (89) and fifty-four (54) minutes east four hundred twenty (420) feet to point in flow line of McMillan Reservoir at elevation thirty-two hundred sixty-five and six-tenths (3265.6) feet above mean sea level marked by pipe number twenty-two (22); thence north fifty-five (55) degrees east ten hundred seventy-five (1075) feet; thence north

eighteen (18) degrees and twenty-six (26) minutes east ninety-five and two-tenths (95.2) feet to point in subdivision line marked by pipe number twenty-four (24); thence north twenty-eight (28) minutes east six hundred fifteen and four-tenths (615.4) feet to the northeast corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of said section; thence north eighty-nine (89) degrees and fifty-five minutes (55) west ten hundred thirty-eight and nine-tenths (1038.9) feet along subdivision line to a point in flow line of McMillan Reservoir at elevation thirty-two hundred seventy-two and six-tenths (3272.6) feet above mean sea level marked by pipe number eleven (11); thence south sixteen (16) degrees and ten (10) minutes east two hundred nine and five-tenths (209.5) feet to pipe number ten (10); thence south eleven (11) degrees and fifty-seven (57) minutes west six hundred fifty-four and four-tenths (654.4) feet to pipe number nine (9); thence south thirty-nine (39) degrees and three (3) minutes west three hundred forty-eight and two-tenths (348.2) feet to point in subdivision line marked by pipe number eight (8); thence south twenty-four (24) minutes west two hundred seven and two-tenths (207.2) feet to point of beginning as above described. Containing twenty-five and forty-nine hundredths (25.49) acres.

19. That said defendant Herbert Litton is the owner of the following described four tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west six hundred fifteen and four-tenths (615.4) feet along section line to pipe number twenty-four (24); thence north eighteen (18) degrees and twenty-six (26) minutes east six hundred four and eight-tenths (604.8) feet; thence north twenty degrees (20) and twenty (20) minutes west forty-three (43) and two-tenths (.2) feet to pipe number twenty-six (26); thence north eighty-nine (89) degrees and fifty-five (55) minutes west one hundred seventy-one and five-tenths (171.5) feet to point of beginning, as above described. Containing six-tenths (.6) acres.

A tract of land in the northwest quarter of the southwest quarter (SW¼) of Section twenty-six (26), Township nine-

teen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six east, N. M. P. M.; thence north twenty-eight (28) minutes east four hundred fifty-two and seven-tenths (452.7) feet on section line to pipe number twenty-seven (27); thence south twenty (20) degrees and twenty (20) minutes east four
19 hundred eighty-three (483) feet to pipe number twenty-six (26); thence north eighty-nine (89) degrees and fifty-five (55) minutes west one hundred seventy-one and five-tenths (171.5) feet on section line to point of beginning, as above described. Containing thirty-three hundredths (.33) acres.

A tract of land in the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west four hundred ninety-five (495) feet on section line to pipe number twenty-nine (29); thence north forty (40) degrees and fifty-two (52) minutes east four hundred fifty (450) feet; thence north thirty-one (31) degrees forty-eight (48) minutes east one hundred eighty-one and two-tenths (181.2) feet to pipe number thirty-one (31); thence north eighty-nine (89) degrees and fifty-seven (57) minutes west three hundred eighty-six (386) feet along subdivision line to point of beginning as above described. Containing one and thirty-seven hundredths (1.37) acres.

A tract of land in the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west one hundred thirty-five and one-tenth (135.1) feet on subdivision line to pipe number thirty-four (34); thence north sixty-two degrees (62) and thirteen (13) minutes west two hundred ninety and six-tenths (290.6) feet to pipe number

thirty-three (33); thence south eighty-nine (89) degrees and fifty-five (55) minutes east two hundred fifty-eight and seven-tenths (258.7) feet on subdivision line to the point of beginning as above described. Containing eleven hundredths (.11) acres.

20. That said defendant S. F. Miles is the owner of the following described tract of land, to-wit:

A tract of land in the northeast quarter of the southeast quarter (NE¼ of SE¼) of Section twenty-seven (27 Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north twenty-eight (28) minutes east four hundred fifty-two and seven-tenths (452.7) feet along Section line to pipe number twenty-seven (27); thence north twenty (20) degrees and twenty (20) minutes west two hundred seventy-three and eight-tenths (273.8) feet; thence north forty (40) degrees and fifty-two (52) min-
20 utes east one hundred fifty (150) feet to pipe number twenty-nine (29); thence north twenty-eight minutes (28) east four hundred ninety-five (495) feet along section line to the east one-quarter (¼) corner of said section twenty-seven (27); thence north eighty-nine (89) degrees and fifty-seven minutes (57) west three hundred thirty-five (335) feet along subdivision line to pipe number twelve (12); thence south twenty-eight (28) degrees and thirty-one (31) minutes west fourteen hundred ninety-eight and three-tenths (1498.3) feet to pipe number eleven (11); thence south eighty-nine (89) degrees and fifty-five (55) minutes east ten hundred thirty-eight and nine-tenths (1038.9) feet to point of beginning as above described. Containing nineteen and seventy-five hundredths (1975) acres.

21. That said defendant George N. Upham is the owner of the following described tract of land:

A tract of land in the south twelve (12) acres of the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the east one-quarter (¼) corner of Section twenty-seven (27), Township nineteen (19) south of Range

twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-seven (57) minutes west three hundred thirty-five (335) feet on subdivision line to pipe number twelve (12); thence north twelve (12) degrees and twenty-nine (29) minutes west four hundred five and three-tenths (405.3) feet to pipe number thirteen (13); thence south eighty-nine (89) degrees and fifty-six (56) minutes east four hundred twenty-two and six-tenths (422.6) feet on property line; thence south twenty-eight (28) minutes west three hundred ninety-five and seven-tenths (395.7) feet on section line to the point of beginning as above described. Containing three and forty-four hundredths (3.44) acres.

22. That the said defendant Bryan Banta is the owner of the following described tract of land:

A tract of land in the north twenty-eight (28) acres of the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at a point on section line between Sections twenty-six (26) and twenty-seven (27) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., which bears north twenty-eight (28) minutes east and three hundred ninety-five and seven-tenths (395.7) feet distant from the east one-quarter (¼) corner of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, marked by a stone; thence north eighty-nine (89) degrees and fifty-six (56) minutes west four hundred twenty-two and six-tenths (422.6) feet on property line to pipe number thirteen (13); thence north twenty-nine (29) degrees east three hundred sixty-four and three-tenths (364.3) feet to pipe number fourteen (14); thence north sixty-eight (68) degrees and thirty-one (31) minutes east two hundred seventy-one and eight-tenths (271.8) feet to point on section line between Sections twenty-six (26) and twenty-seven (27) in Township nineteen (19) south of Range twenty-six (26) east, marked by pipe number fifteen (15); thence south twenty-eight (28) minutes west four hundred nineteen and five-tenths
21 (419.5) feet to point of beginning as above described. Containing two and seventy-nine hundredths (2.79) acres.

23. That said defendant John Fidell is the owner of the following described three tracts of land:

A tract of land in the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west one hundred thirty-five and one-tenth (135.1) feet on subdivision line to pipe number thirty-four (34); thence north thirty-two (32) degrees and twenty-eight (28) minutes east one hundred seventy-four and three-tenths (174.3) feet to pipe number thirty-six (36); thence north eighty-nine (89) degrees and fifty-five minutes (55) west one hundred fifteen and five-tenths (115.5) feet on subdivision line to the point of beginning as above described. Containing four-hundredths (.04) acres.

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section twenty-six, Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west three hundred ninety-five and seven-tenths (395.7) feet on subdivision line to pipe number thirty-nine (39); thence north fifty-four degrees (54) and twelve (12) minutes east six hundred seventy-five and three-tenths (675.3) feet to pipe number forty (40); thence north eight-nine (89) degrees and fifty-five (55) minutes west five hundred forty-four and three-tenths (544.3) feet on subdivision line to the point of beginning as above described. Containing one and seven-tenths (1.7) acres.

A tract of land in the northeast quarter of the northeast quarter (NE¼ of NE¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the northeast quarter (NE¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south twenty-eight (28) minutes west ten hundred sixty-five and three-tenths (1065.3) feet on subdivision line to pipe number forty-two (42); thence north seventy-two degrees (72) and fifty-one minutes (51) east, four hundred ninety-seven (497)

feet; thence north nineteen (19) degrees and fourteen (14) minutes west six hundred (600) feet; thence north thirty-four (34) degrees and forty-five (45) minutes east, four hundred twenty-eight (428) feet to pipe number forty-five (45); thence north eighty-nine (89) degrees and fifty-five (55) minutes west five hundred eleven and nine-tenths (511.9) feet on section line to point of beginning as above described. Containing seven and seven-hundredths (7.07) acres.

22 24. That said defendant John Carothers and Benjamin D. Conklin and Mrs. Anna C. Bentley are the owners, or claim interest in the following described six tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-five (55) minutes east three hundred eighty-six (386) feet on subdivision line to pipe number thirty-one (31); thence north thirty-one (31) degrees and forty-eight (48) minutes east three hundred eighteen and eight-tenths (318.8) feet; thence south sixty-two (62) degrees and thirteen (13) minutes east five hundred eight-three and four-tenths (583.4) feet to pipe number thirty-three (33); thence south eighty-nine (89) degrees and fifty-five (55) minutes east two hundred fifty-eight and seven-tenths (258.7) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said section; thence north twenty-eight (28) minutes east twelve hundred fifteen and eight-tenths (1215.8) feet on subdivision line to pipe number eighteen (18); thence south thirty-one (31) degrees and twenty-two (22) minutes west two hundred seven and two-tenths (207.2) feet to pipe number seventeen (17); thence south fifty-two (52) degrees and fifty-four (54) minutes west, three hundred ninety-nine and seven-tenths (399.7) feet to pipe number sixteen (16); thence north eighty-eight (88) degrees and fifty-six (56) minutes west nine hundred four and seven-tenths (904.7) feet to point on section line between Sections twenty-six (26) and twenty-seven (27) in Township nineteen (19) south of Range twenty-six (26) east, marked by pipe number fifteen (15); thence south twenty-eight (28) minutes west eight hundred fifteen and two-tenths (815.2) feet on said section line to the point of

beginning as above described. Containing twenty-one and sixty-two hundredths (21.62) acres.

A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-five (55) minutes east one hundred fifteen and five-tenths (115.5) feet on subdivision line to pipe number thirty-six; thence north thirty-two (32) degrees and twenty-eight (28) minutes east seven hundred twenty-five and seven-tenths (725.7) feet; thence north seventy-seven (77) degrees and thirty (30) minutes east six hundred (600) feet; thence north fifty-four (54) degrees and twelve (12) minutes east three hundred one and seven-tenths (301.7) feet to pipe number thirty-nine (39); thence north twenty-eight minutes (28) east three hundred ninety-five and seven-tenths (395.7) feet on subdivision line to the northeast corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of said section; thence north eighty-nine (89) degrees and fifty-five (55) minutes west twelve hundred sixty-nine and three-tenths
23 (1269.3) feet on subdivision line to pipe number nineteen (19); thence south thirty-one (31) degrees and twenty-two (22) west one hundred twenty- one and seven-tenths (121.7) feet to pipe number eighteen (18); thence south twenty-eight (28) minutes west twelve hundred fifteen and eight-tenths (1215.8) feet on subdivision line to the point of beginning as above described, containing twenty-one (21) acres.

A tract of land in the northeast quarter (NE¼) of the northwest quarter (NW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the northwest quarter (NW¼) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-five minutes west twelve hundred sixty-nine and three-tenths (1269.3) feet on subdivision line to pipe number nineteen (19); thence north thirty-one (31) degrees and twenty-two (22) minutes east one hundred fifty-five (155) feet

to pipe number twenty (20); [thence] north sixty-eight (68) degrees and seventeen minutes (17) east, twelve hundred seventy-nine and three-tenths (1279.3) feet to pipe number twenty-one (21); thence south twenty-eight (28) minutes west six hundred fourteen and eight-tenths (614.8) feet on the subdivision line to the point of beginning as above described. Containing ten and fifty-two hundredths (10.52) acres.

A tract of land in the northwest quarter ($NW^1/_4$) of the northeast quarter ($NE^1/_4$) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter of the northeast quarter ($NW^1/_4$ of $NE^1/_4$) of Section twenty-six (26), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-five (55) minutes east five hundred forty-four and three-tenths (544.3) feet on subdivision line to pipe number forty (40); thence north fifty-four (54) degrees and twelve (12) minutes east twenty-three (23) feet; thence north seventy-two (72) degrees and fifty-one (51) minutes east eight hundred three (803.) feet to pipe number forty-two (42); thence north twenty-eight (28) minutes east ten hundred sixty-five and three-tenths (1065.3) feet on subdivision line to the northeast corner of the northwest quarter ($NW^1/_4$) of the northeast quarter ($NE^1/_4$) of said section; thence north eighty-nine (89) degrees and fifty-five (55) minutes west six hundred sixty-four and seven-tenths (664.7) feet on section line to pipe number twenty-four (24); thence south thirty-two (32) minutes east four hundred seventy-five and seven-tenths (475.7) feet to pipe number twenty-[three (23); thence south forty-six (46) and forty-four (44) minutes] three (23); thence south forty-six (46) degrees and forty-four (44) minutes west four hundred sixty-seven and six-tenths (467.6) feet to pipe number twenty-two (22); thence north seventy-three (73) degrees and fifty-eight (58) minutes west three hundred forty-six and seven-tenths (346.7) feet to pipe number twenty-one (21); thence south twenty-eight (28) minutes west six hundred fourteen and eight-tenths (614.8) feet on subdivision line to the point of beginning as above described. Containing twenty-five and seventy-nine hundredths (25.79) acres.

24 A tract of land in the southwest quarter ($SW^1/_4$) of the southeast quarter ($SE^1/_4$) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south thirteen hundred twenty-seven and four-tenths (1327.4) feet to the southeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said section; thence north eighty-nine (89) degrees and fifty-five (55) minutes west six hundred sixty-four and seven-tenths (664.7) feet on section line to pipe number twenty-four (24); thence north one (1) degree and fifty-eight (58) minutes east six hundred twenty (620) feet to pipe number twenty-five (25); thence south eighty-seven (87) degrees and twenty-seven (27) minutes west two [thundred] fifty-four and two-tenths (254.2) feet to pipe number twenty-six (26); thence south fifty-nine (59) degrees and forty-six (46) minutes west four hundred ninety-nine and two-tenths (499.2) feet to pipe number twenty-seven (27); thence north nine hundred sixty-eight and one-tenth (968.1) feet to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said section 23, being marked by pipe number thirty (30); thence north eighty-nine (89) degrees and fifty-eight (58) minutes east thirteen hundred twenty-eight and one-tenth (1328.1) feet on subdivision line to the point of beginning as above described. Containing thirty-one and seventy-nine hundredths (3179) acres.

A tract of land in the southeast quarter (SE¼) of the southwest quarter (SW¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the southeast quarter (SE¼) of the southwest quarter (SW¼) of Section twenty-three (23), Township nineteen (19) south of range twenty-six (26) east, N. M. P. M.; thence south nine hundred sixty-eight and one-tenth (968.1) feet on subdivision line to pipe number twenty-seven (27); thence north fifty-five (55) degrees and forty-nine (49) minutes west ten hundred fifty-nine and one-tenth (1059.1) feet to pipe number twenty-eight (28); thence north nine degrees and twenty-six (26) minutes west three hundred seventy-seven and five-tenths (377.5) feet to pipe number twenty-nine (29); thence north eighty-nine (89) degrees and fifty-eight (58) minutes east nine hundred thirty-seven and eight-tenths (937.8) feet on subdivision line to point of beginning as above described, being marked by pipe number thirty (30). Containing thirteen and seventy-three hundredths (13.73) acres.

25. The said defendant Mary Fidell is the owner of the following described two tracts of land, to-wit:

A tract of land in the southeast quarter (SE¼) of southeast quarter (SE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section
25 twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-five (55) minutes east five hundred eleven and nine-tenths (511.9) feet on section line to pipe number forty-five (45); thence north thirty-three (33) degrees and ten (10) minutes east ten hundred seventy-two (1072) feet; thence north fifty-six degrees (56) and forty (40) minutes west seven hundred ninety (790) feet to pipe number forty-seven (47); thence south eighty-nine (89) degrees and fifty-eight (58) minutes west four hundred thirty-seven (437) feet on subdivision line to the northwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of said section twenty-three (23); thence south thirteen hundred twenty-seven and four-tenths (1327.4) feet to the point of beginning as above described. Containing twenty-one and fifty-one hundredths (21.51) acres.

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south nine hundred eighteen (918) feet on section line to pipe number fifty-one (51); thence north sixty-eight (68) degrees and forty (40) minutes east three hundred forty-two (342) feet; thence north fifty-one (51) degrees and ten (10) minutes east six hundred (600) feet; thence north eighty (80) degrees and fifty-two (52) minutes east five hundred thirty-six (536) feet to pipe number fifty-four (54); thence north three hundred thirty-two and five-tenths 332.5) feet to the northeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said section twenty-three (23); thence south eighty-nine (89) degrees and fifty-nine minutes west thirteen

hundred eighteen and six-tenths (1318.6) feet to the point of beginning as above described. Containing fifteen and sixteen-hundredths (15.16) acres.

26. That said defendant Annie B. McHenry is the owner of the following described four tracts of land, to-wit:

The northwest quarter (NW¼) of the southeast quarter (SE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east of New Mexico Principal Meridian, containing forty (40) acres.

A tract of land in the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-eight (58) minutes east four hundred thirty-seven (437) feet on subdivision line to pipe number forty-seven (47); thence north fifty six (56) degrees and forty (40) minutes west four hundred ten (410) feet; thence north twenty-five (25) degrees and three (3) minutes east twelve hundred twenty and four-tenths (1220.4) feet to pipe
26 number forty-nine (49); thence south eighty-nine (89) degrees and fifty (50) minutes west six hundred eleven and two-tenths (611.2) feet on subdivision line to the northwest corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of said section; thence south thirteen hundred twenty-seven and four-tenths (1327.4) feet to point of beginning as above described. Containing eight and sixty-one hundredths (8.61) acres.

A tract of land in the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty (50) minutes east six hundred eleven and two-tenths (611.2) feet on subdivision line to pipe number forty-nine (49); thence north twenty-five (25) degrees and three (3) minutes east one hundred seventy-nine and six-tenths (1796)

feet; thence north sixty-eight (68) degrees and forty (40) minutes east six hundred eight-eight (688) feet to pipe number fifty-one (51); thence north nine hundred eighteen (918) feet on section line to the northeast corner of the southeast quarter (SE¼) of the northeast quarter (NE¼) of said section; thence south eighty-nine (89) degrees and forty (40) minutes west thirteen hundred twenty-eight and one-tenth (1328.1) feet to the northwest corner of the southeast quarter (SE¼) of the northeast quarter (NE¼) of said section; thence south thirteen hundred twenty-eight and two-tenths (1328.2) feet to the point of beginning as above described. Containing thirty-four and forty-five hundredths (34.25) acres.

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the center of Section twenty-three (23), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north twenty-six (26) degrees and thirty-two (32) minutes east eight hundred seventy-five and eight-tenths (875.8) feet to pipe number thirty-two; thence south eighty-nine (89) degrees and twenty-five (25) minutes east three hundred seventy-three and seven-tenths (373.7) feet to pipe number thirty-three (33); thence north seventeen (17) degrees and fourteen (14) minutes east five hundred seventy-six (576) feet to pipe number thirty-four (34); thence north eighty-nine (89) degrees and forty (40) minutes east three hundred ninety-four (394) feet on subdivision line to the northeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said section; thence south thirteen hundred twenty-eight and two-tenths (1328.2) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said section; thence south eighty-nine (89) degrees and fifty (50) minutes west thireen hundred twenty-eight and one-tenth (1328.1) feet on subdivision line to point of beginning as above described. Containing twenty-five and sixty-five hundredths (25.65) acres.

27. That said defendants John H. Hayhurst and William L. Rogers are the owners of the following described tract of land, to-wit:

27 A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south three hundred thirty-two and five-tenths (332.5) feet on subdivision line to pipe number fifty-four (54); thence north eighty (80) degrees and fifty-two minutes east [two] two hundred sixty-four (264) feet; thence north sixty-three (63) degrees and twenty-six (26) minutes east, six hundred forty-nine and seven-tenths (649.7) feet to pipe number fifty-six (56); thence south eighty-nine (89) degrees and fifty-nine (59) minutes west eight hundred forty-one and eight-tenths (841.8) feet on subdivision line to the point of beginning as above described. Containing two and nineteen-hundredths (2.19) acres.

28. That said defendant R. W. Rankin is the owner of the following described six tracts of land, to-wit:

A tract of land described as follows:

The northwest quarter (NW¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, containing forty (40) acres.

A tract of land in the northeast quarter (NE¼) of the northwest quarter (NW¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the north one-quarter (¼) corner of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and six-tenths (1318.6) feet to the northwest corner of the northeast quarter (NE¼) of the northwest quarter (NW¼) of said section; thence south thirteen hundred thirty-one and nine-tenths (1331.9) feet on subdivision line to the southwest corner of the northeast quarter (NE¼) of the northwest quarter (NW¼) of said section; thence north eighty-nine (89) degrees and fifty-nine (59) minutes east eight hundred forty-one and eight-tenths (841.8) feet on subdivision line to pipe number fifty-six (56); thence north sixty-three (63) degrees and twenty-six (26) minutes east five hundred thirty-three and one-tenth (533.1) feet to pipe number fifty-seven (57); thence north ten hundred ninety-two and eight-tenths (1092.8) feet on subdivision line to the point of beginning as above described. Containing thirty-seven and sixty-one hundredths (37.61) acres.

A tract of land in the northwest quarter (NW¼) of the northeast quarter (NE¼) of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

28 Beginning at the north one-quarter (¼) corner of Section twenty-four (24), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south ten hundred ninety-two and eight-tenths (1092.8) feet on subdivision line to pipe number fifty-seven (57); thence north sixty-three (63) degrees and twenty-six (26) minutes east, seventeen and two-tenths (17.2) feet; thence north twenty-four (24) degrees and thirty-nine (39) minutes east ten hundred feet (1000); thence north five (5) degrees and twenty-one (21) minutes west one-hundred seventy-seven (177) feet to pipe number sixty (60); thence south eighty-nine (89) degrees and fifty-nine (59) minutes west four hundred sixteen (416) feet on section line between Sections thirteen (13) and twenty-four (24) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing five and twenty-hundredths (5.20) acres.

A tract of land in the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north fourteen (14) minutes west one hundred sixty-two and four-tenths (162.4) feet on section line between Sections thirteen (13) and fourteen (14), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to pipe number forty (40); thence south eighty-four (84) degrees and thirty-three (33) minutes east four hundred thirty and four-tenths (430.4) feet to pipe number forty-one (41); thence north thirty-six (36) degrees and twenty-six (26) minutes east three hundred thirteen and five-tenths (313.5) feet to pipe number forty-two (42); thence north sixty-seven (67) degrees and forty-six (46) minutes east seven hundred fifty-eight and two-tenths (758.2) feet to pipe number forty-three (43); thence south fourteen (14) minutes east six hundred sixty-two and two-tenths (662.2) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the southwest quarter (SW¼) of said Section thirteen (13); thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and six-tenths (1318.6)

feet on section line between Sections thirteen (13) and twenty-four (24) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing ten and eighty-hundredths (10.80) acres.

A tract of land in the southeast quarter (SE¼) of the southwest quarter (SW¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the south one-quarter (¼) corner of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and six-tenths (1318.6) feet on section line between Sections thirteen (13) and twenty-four (24) to the southwest corner of the southeast quarter (SE¼) of the southwest quarter (SW¼) of Section thirteen (13), all in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence
29 north fourteen (14) minutes west six hundred sixty-two and two-tenths (662.2) feet on subdivision line to pipe number forty-three (43); thence north sixty-six degrees and four (4) minutes east two hundred forty-eight and three-tenths (248.3) feet to pipe number forty-four (44); thence north eight (8) degrees and fifty-three (53) minutes west four hundred twenty-one and four-tenths (421.4) feet to pipe number forty-five (45); thence north forty-seven (47) degrees and thirty (30) minutes west two hundred twenty-one and three-tenths (221.3) feet to the northwest corner of the southeast quarter (SE¼) of the southwest quarter (SW¼) of said Section thirteen (13); also marked by pipe number forty-six (46); thence north eighty-nine (89) degrees and fifty-nine (59) minutes east thirteen hundred eighteen and one-tenth (1318.1) feet on subdivision line to the northeast corner of the southeast quarter (SE¼) of the southwest quarter (SW¼) of said section; thence south fourteen (14) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the point of beginning as above described. Containing thirty-seven and fifty-four hundredths (37.54) acres.

A tract of land in the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section thirteen

(13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., being marked by pipe number forty-six (46); thence north fourteen (14) minutes west three hundred fifty-four and seven-tenths (354.7) feet on subdvision line to pipe number forty-seven (47); thence south eighty-six (86) degrees and sixteen (16) minutes east four hundred sixty-three and two-tenths (463.2) feet to pipe number forty-eight (48); thence north twenty-seven (27) degrees and twelve (12) minutes east eleven hundred twenty-seven and seven-tenths (1127.7) feet to pipe number forty nine (49); thence north eighty-nine (89) degrees and fifty-nine (59) minutes east three hundred thirty-five and one-tenth (335.1) feet on subdivision line to the northeast corner of the northeast quarter (NE¼) of the southwest quarter (SW¼) being the center of said section; thence south fourteen (14) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the southeast corner of the northeast quarter (NE¼) of the southwest quarter (SW¼) of said section; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and one-tenth (1318.1) feet to the point of beginning as above described. Containing twenty-three and forty-four hundredths (23.44) acres.

29. That said defendant Henry Zajic is the owner of the following described tract of land, to-wit:

A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the center of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west three hundred thirty-five and one-tenth
30 (335.1) feet on subdivision line to pipe number forty-nine (49); thence north fifty-four (54) degrees and forty-one (41) minutes east four hundred ten and three-tenths (410.3) feet to pipe number fifty (50); thence south fourteen (14) minutes east two hundred thirty-two and two-tenths (232.2) feet on sub-division line to the point of beginning as above described. Contining ninety-five hundredths (.95) acres.

30. That said defendants John W. Shanner and W. B. Clark are the owners of the following described three tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six east, New Mexico Principal Meridian, described as follows:

Beginning at the center of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north fourteen (14) minutes west two hundred thirty-two and two-tenths (232.2) feet on subdivision line to pipe number fifty (50); thence north sixty-three (63) degrees and thirty-three (33) minutes east six hundred twenty-nine and two-tenths (629.2) feet to pipe number fifty-one (51); thence north twenty-two (22) degrees and thirty-nine (39) minutes east three hundred feet (300) to pipe number fifty-two (52); thence south eighty-eight degrees and two (2) minutes east five hundred thirty-seven (537) feet to pipe number fifty-three (53); thence north twelve (12) degrees and fifty-two (52) minutes east four hundred forty (440) feet to pipe number fifty-four (54); thence south fourteen (14) minutes east twelve hundred five (1205) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said section; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west thirteen hundred eighteen and four-tenths (1318.4) feet on subdivision line to the point of beginning as above described. Containing eighteen and forty-five hundredths (18.45) acres.

A tract of land in the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north fourteen (14) minutes twelve hundred five (1205) feet on subdivision line to pipe number fifty-four (54); thence north forty-seven (47) degrees and fifty-four (54) minutes east one hundred eighty-five (185) feet to pipe number fifty-five (55); thence north eighty-nine (89) degrees and fifty-nine (59) minutes east eleven hundred eighty and seven-tenths (1180.7) feet on subdivision line to the northeast corner of the southeast quarter (SE¼) of the northeast quarter (NE¼) of said section; thence south fourteen (14) minutes east seven hundred eleven and nine-tenths (711.9) feet on section line between Sections thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section eighteen (18), Township nineteen

(19) south of Range twenty-seven (27) east, N. M. P. M., to point marked by pipe number sixty-eight (68); thence south thirty-three (33) degrees and forty-eight (48) minutes west seven hundred forty-three and one-tenth (743.1) feet to pipe number sixty-seven (67); thence south eighty-nine (89)
31 degrees and fifty-nine (59) minutes west nine hundred two and four-tenths (902.4) feet on subdivision line to the point of beginning as above described. Containing [thirt-six] and two hundredths (36.02) acres.

A tract of land in the northeast quarter (NE¼) of the northeast quarter (NE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the northeast quarter (NE¼) of Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-nine (59) minutes west eleven hundred eighty and seven-tenths (1180.7) feet to pipe number fifty-five (55); thence north fifty (50) degrees and fifty-two (52) minutes east eight hundred six and three-tenths (806.3) feet to pipe number fifty-six (56); thence north thirty-nine (39) degrees and twenty-two (22) minutes east eight [hudnerd] sixty-seven and two-tenths (867.2) feet to pipe number fifty-seven (57); thence south fourteen (14) minutes east eleven hundred eighty and seven-tenths (1180.7) feet on section line between Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section eighteen (18), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing fourteen and thirty-seven hundredths (14.37) acres.

31. That said defendant E. H. Vance is the owner of the following described two tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the southwest quarter (SW¼) of the southwest quarter (SW¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence west eleven hundred ninety-seven and eight-tenths (1197.8) feet on section line between Section seven (7) and eighteen (18) in Township nineteen

(19) south of Range twenty-seven (27) east, N. M. P. M., to pipe number fifty-eight (58); thence north seventy-four (74) degrees and eighteen (18) minutes east three hundred forty-six and six-tenths (346.6) feet to pipe number fifty-nine (59); thence north thirty-six (36) degrees and thirty-six (36) minutes east six hundred forty-three and two-tenths (643.2) feet to pipe number sixty (60); thence north thirteen (13) degrees and twenty-eight (28) minutes west four hundred fifty and three-tenths (450.3) feet to pipe number sixty-one (61); thence north eighty-six (86) degrees and forty-one (41) minutes west seven hundred twenty-five and six-tenths (725.6) feet to pipe number sixty-two (62); thence north twenty-four (24) minutes west two hundred thirty-six and three-tenths (236.3) feet on section line between Sections twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the northwest corner of the southwest quarter (SW¼) of the southwest quarter (SW¼) of said Section seven (7); thence east thirteen hundred three and two-tenths (1303.2) feet on subdivision line to the northeast corner of the southwest quarter (SW¼) of the southwest quarter (SW¼) of said Section seven (7); thence south twenty-seven (27) minutes east thirteen hundred twenty-six and five-tenths (1326.5) feet on subdivision line to the point of beginning as above described. Containing twenty-three and fifty-nine hundredths (23.59) acres.

A tract of land in the northwest quarter (NW¼) of the northwest quarter (NW¼) of Section eighteen (18), Township nineteen (19), south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the northwest quarter (NW¼) of Section eighteen (18), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east four hundred thirteen and six-tenths (413.6) feet on subdivision line to pipe number sixty-nine (69); thence north twenty-nine (29) degrees and fifty-nine (59) minutes east five hundred forty-eight and one-tenth (548.1) feet; thence north forty-six (46) degrees and eighteen (18) minutes east six hundred (600) feet; thence north sixty-one (61) degrees and twenty-five (25) minutes east two hundred nine and five-tenths (209.5) feet to pipe number seventy-two (72); thence north twenty-seven (27) minutes west three hundred forty-one and three-tenths (341.3) feet to the northeast corner of the northwest quarter (NW¼) of the northwest quarter (NW¼) of said Section

eighteen (18); thence west eleven hundred ninety-seven and eight-tenths (1197.8) feet on section line between Sections eighteen (18) and seven (7) in Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; to point marked by pipe number fifty-eight (58); thence south thirty-five (35) degrees and thirty-five minutes west one hundred eighty-two and two-tenths (182.2) feet to pipe number fifty-seven (57); thence south fourteen (14) minutes east eleven hundred eighty and seven-tenths (1180.7) feet on section line between Section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section eighteen (18), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing twenty-six and fifty-hundredths (26.50) acres.

32. That said defendant Curtis V. Yoh is the owner of the following described two tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence south twenty-seven (27) minutes east eight hundred ninety-one and one-tenth (891.1) feet on subdivision line to pipe number seventy-five (75); thence north fifty-four (54) degrees and fifty (50) minutes east eighty hundred and fifty-seven and seven-tenths (857.7) feet; thence north twenty-eight (28) degrees and twenty-five (25) minutes east four hundred fifty-one and five-tenths (451.5) feet to pipe number seventy-eight (78); thence west four hundred ninety-three and four-tenths (493.4) feet on subdivision line to the point of beginning as above described. Containing
33 seven and sixty-nine hundredths (7.69) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east four hundred ninety-three and four-tenths (493.4) feet on subdivision line to pipe number seventy-eight (78); thence north twenty-eight (28) de-

grees and twenty-five (25) minutes west five hundred forty-eight and five-tenths (548.5) feet; thence north seventy-five (75) degrees and fifty-nine (59) minutes west two hundred forty-four and nine-tenths (244.9) feet to pipe number eighty (80); thence south twenty-seven (27) minutes east five hundred forty-one and seven-tenths (541.7) feet on subdivision line to the point of beginning as above described. Containing three and two-hundredths (3.02) acres.

33. That defendant C. E. Vaughn is the owner of the following described two tracts of land, to-wit:

A tract of land in the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence south twenty-four (24) minutes east thirteen hundred twenty-six and five-tenths (1326.5) feet on section line between Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east thirteen hundred three and two-tenths (1303.2) feet on subdivision line to the southeast corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of said Section (7); thence north twenty-seven (27) minutes west ten hundred fifty-one and nine-tenths (1051.9) feet on subdivision line to pipe number eighty-two (82); thence north fifty-two (52) degrees twenty-five (25) minutes west four hundred five and nine-tenths (405.9) feet to pipe number eighty-three (83); thence west nine hundred eighty-two and five-tenths (982.5) feet on subdivision line to the point of beginning as above described. Containing thirty-seven and ninty-one hundredths (37.91) acres.

A tract of land in the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northeast quarter (NE¼) of the southwest quarter (SW¼) of Section seven (7), Township nineteen (19) south, Range twenty-seven (27) east, N. M. P. M.; thence east thirteen hundred twenty (1320) feet on subdivision line to the southeast corner of the
34 northeast quarter (NE¼) of the southwest quarter (SW¼) of said section; thence north twenty-seven

(27) minutes west five hundred forty-one and seven-tenths (541.7) feet on subdivision line to pipe number eighty (80); thence north seventy-five degrees (75) and fifty-nine (59) minutes west nine hundred fifty-five and one-tenth (955.1) feet; thence north fifty-two (52) degrees and twenty-five (25) minutes west five hundred one and five-tenths (501.5) feet to pipe number eighty-two (82); thence south twenty-seven (27) minutes east ten hundred fifty-one and nine-tenths (1051.9) feet on subdivision line to the point of beginning as above described. Containing twenty and fifty-hundreths (20.50) acres.

34. That said defendant J. J. Alexander is the owner of the following described three tracts of land, to-wit:

A tract of land described as follows:

The east one-half ($E^1/_2$) of the northeast quarter ($NE^1/_4$) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, containing eighty (80) acres.

A tract of land in the southwest quarter ($SW^1/_4$) of the northwest quarter ($NW^1/_4$) of Section seven (7), Township nineteen (9), South of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter ($^1/_4$) corner of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east nine hundred eighty-two and five tenths (982.5) feet on subdivision line to pipe number eighty-three (83); thence north twenty-six (26) degrees and fifty (50) minutes west ten hundred (1000) feet; thence north seven (7) degrees and fifty (50) minutes west three hundred eighty-one and eight tenths (381.8) feet to pipe number eighty-six; thence west four hundred fourteen and nine-tenths (414.9) feet on subdivision line to the northwest corner of the southwest quarter ($SW^1/_4$) of the northwest quarter ($NW^1/_4$) of said section; thence south twenty-four (24) minutes east thirteen hundred twenty-six and five-tenths (1326.5) feet on section line between Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing seventeen and twelve-hundredths (17.12) acres.

A tract of land in the northwest quarter ($NW^1/_4$) of the northwest quarter ($NW^1/_4$) of section seven (7), Township

nineteen (19), south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of Section seven (7) Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence south twenty-four (24) minutes east thirteen hundred twenty-six and five-tenths (1326.5) feet on section line between Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., and Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the southwest corner of the northwest quarter (NW¼) of the northwest
35 quarter (NW¼) of said Section seven (7); thence east four hundred fourteen and nine-tenths ((414.9) feet on subdivision line to pipe number eighty-six (86); thence north seven (7) degrees and fifty (50) minutes west eight hundred eighteen and two-tenths (818.2) feet; thence north eighteen (18) degrees and thirty (30) minutes west five hundred forty-four (544) feet to pipe number eighty-eight (88); thence west one hundred forty (140) feet on section line between Sections six (6) and seven (7) in Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M., to the point of beginning as above described. Containing seven and seventy-two hundredths (7.72) acres.

35. That said defendant Clara E. Courtney is the owner of the following described four tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) in Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section twelve (12), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-two (52) minutes west three hundred seventy and [there-] tenths (370.3) feet on subdivision line to pipe number seventy (70); thence north ten (10) degrees and seven (7) minutes west thirteen hundred fifty-one and eight-tenths (1351.8) feet to pipe number seventy-one (71); thence south eighty-nine (89) degrees and forty-six (46) minutes east five hundred ninety-five feet (595) to the northeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said section; thence south thirty-four (34) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the point of beginning as above described.

Containing fourteen and seventy-six hundredths (14.76) acres.

A tract of land in the northwest quarter ($NW^1/_4$) of the northeast quarter ($NE^1/_4$) in Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northwest quarter ($NW^1/_4$) of the northeast quarter ($NE^1/_4$) of Section twelve (12), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and forty-six (46) minutes west five hundred ninety-five (595) feet on subdivision line to pipe number seventy-one (71); thence north ten (10) degrees and seven (7) minutes west ten hundred fifty-three (1053) feet to pipe number seventy-two (72); thence north twenty-five (25) degrees and twenty-three (23) minutes east three hundred twenty-five (325.6) and six-tenths to pipe number seventy-three (73); thence south eighty-nine (89) degrees and forty (40) minutes east six hundred twenty-six and six-tenths (626.6) feet on section line between Sections one (1) and twelve (12) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the northeast corner of the northwest quarter ($NW^1/_4$) of the northeast quarter ($NE^1/_4$) of said Section twelve (12); thence south thirty-four (34) minutes east thirteen hundred twenty-nine and two-tenths (1329.2) feet on subdivision line to the point of beginning as above described. Containing twenty and ninety-nine hundredths (20.99) acres.

36 A tract of land in the southwest quarter ($SW^1/_4$) of the southeast quarter ($SE^1/_4$) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southwest quarter ($SW^1/_4$) of the southeast quarter ($SE^1/_4$) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and forty minutes west six hundred twentysix and six-tenths (626.6) feet on section line between Sections twelve (12) and one (1) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to point marked by pipe number seventy-three (73); thence north sixty-six (66) degrees and five (5) minutes west three hundred fifty-one and three-tenths (351.3) feet to pipe number seventy-four (74); thence north seventeen (17) degrees and fifty-four (54) minutes west three hundred seventy-three and five-tenths (373.5) feet to pipe

number seventy-five (75); thence south seventy-one (71) degrees and fifty-nine (59) minutes west two hundred eighty-three feet (283) to pipe number seventy-six (76); thence north seventeen (17) minutes west nine hundred twenty and six-tenths (920.6) feet on subdivision line to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said Section one (1); thence south eighty-nine (89) degrees and forty-four (44) minutes east thirteen hundred thirty-three and four-tenths (1333.4) feet on subdivision line to the northeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said Section one (1); thence south twenty (20) minutes east thirteen hundred twenty-five and six-tenths (1325.6) feet on subdivision line to the point of beginning as above described. Containing thirty-five and eighty-one hundredths (35.81) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section one (1); Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north seventeen (17) minutes west five hundred (512.7) and seven-tenths feet on subdivision line to pipe number eighty-two (82); thence north thirteen (13) degrees and forty (40) minutes east seven hundred five and seven-tenths (705.7) feet to pipe number eighty-three (83); thence north thirty-two (32) degrees and thirty-three (33) minutes west one hundred forty-eight and seven-tenths (148.7) feet to pipe number eighty-four (84); thence south eighty-nine (89) degrees and forty-eight (48) minutes east twelve hundred forty-two and two-tenths (1242.2) feet on subdivision line to the northeast corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of said section; thence south twenty (20) minutes east thirteen hundred twenty-five and six-tenths (1325.6) feet on subdivision line to the southeast corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of said Section; thence north eighty-nine (89) degrees and forty-four (44) minutes west thirteen hundred thirty-three and four-tenths (1333.4) feet on subdivision line to the point of beginning, as above described. Containing thirty-eight and twenty-nine hundredths (38.29) acres.

36. That said defendant Mary Z. McCrillis is the own-
37 er of the following described tract of land, to-wit:

A tract of land in the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section two (2), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the east one-quarter (¼) corner of Section two (2), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., marked by pipe number niney-five (95); thence north fifty-nine (59) degrees and thirty-four (34) minutes west three hundred eighty-one and five-tenths (381.5) feet to pipe number ninety-six (96); thence north eighteen (18) degrees and thirty-one (31) minutes east one hundred forty-six and four-tenths (146.4) feet to pipe number ninety-seven (97); thence north forty-five degrees and fifty-two minutes (45 d. 52 m.) east four hundred three (403) feet to pipe number ninety-eight (98); thence south twelve (12) minutes east six hundred twenty and six-tenths (620.6) feet on section line between Sections one (1) and two (2), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing two and sixty-four hundredths (2.64) acres.

37. That said defendant Frank Edwards is the owner of the following described two tracts of land, to-wit:

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26), New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and forty-eight (48) minutes west twelve hundred forty-two and two-tenths (1242.2) feet on subdivision line to pipe number eighty-four (84); thence north thirty-two (32) degrees and thirty-three (33) minutes west one hundred sixty-six and [eigth-tenths] (166.8) feet to pipe number eighty-five (85); thence north seventeen (17) minutes west eleven hundred eighty-four (1184) feet on subdivision line to the northwest corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said Section one (1); thence south eighty-nine (89) degrees and fifty-four minutes east thirteen hundred thirty-one and one-tenth (1331.1) feet on subdivision

line to the northeast corner of the southwest quarter (SW¼) of the northeast quarter (NE¼) of said section; thence south twenty (20) minutes east thirteen hundred twenty-five and two-tenths (1325.2) feet on subdivision line to the point of beginning as above described. Containing thirty-nine and eighty-six hundredths (39.86) acres.

A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26)
38 east, N. M. P. M.; thence south eighty-nine (89) degrees and forty-eight (48) minutes east five hundred eighty-three and five-tenths (583.5) feet on subdivision line to pipe number eighty-eight (88); thence north twenty-seven (27) degrees and twenty-eight (28) minutes east seventy-two and five-tenths (72.5) feet to pipe number eighty-seven (87); thence north sixty-four (64) degrees and twenty-six (26) minutes east six hundred forty-four and eight-tenths (644.8) feet to pipe number eighty-six (86); thence south thirty-two (32) degrees and thirty-three (33) minutes east two hundred forty-four and eight-tenths (244.8) feet to pipe number eighty-five (85); thence north seventeen (17) minutes west eleven hundred eigthy-four (1184) feet on subdivision line to the northeast corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of said Section one (1); thence north eighty-nine (89) degrees and fifty-four (54) minutes west thirteen hundred thirty and nine-tenths (1330.9) feet to the northwest corner of the southeast quarter (SE¼) of the northwest (NW¼) of said Section one (1); thence south fifteen (15) minutes east thirteen hundred twenty-three and two-tenths (1323.2) feet on subdivision line to the point beginning as above described. Containing thirty-six and forty-two hundredths (36.42) acres.

38. That said defendant I. C. Roberts is the owner of the following described two tracts of land, to-wit:

A tract of land described as follows:

The northwest quarter (NW¼) of the northeast quarter (NE¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, it being also a fractional lot in said section, containing forty and twenty-nine hundredths (40.29) acres.

A tract of land in the northeast quarter (NE¼) of the northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the north one-quarter (¼) corner of Section one (1), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M.; thence south seventeen (17) minutes east thirteen hundred seventeen and four-tenths (1317.4) feet on subdivision line to the southeast corner of the northeast quarter (NE¼) of the northwest quarter (NW¼) of said section; thence north eighty-nine (89) degrees and fifty-four (54) minutes west thirteen hundred thirty and nine-tenths (1330.9) feet to the southwest corner of the northeast quarter (NE¼) of the northwest quarter (NW¼) of said section; thence north fifteen (15) minutes west two hundred three and six-tenths (203.6) feet on subdivision line to pipe number one hundred (100); thence north fifty-eight (58) degrees and (9) minutes east one hundred forty-nine (149) feet to pipe number one hundred and one (101); thence north twenty-four (24) degrees and thirteen (13) minutes east seven hundred thirty-six and five-tenths (736.5) feet to pipe number one hundred two (102); thence north eleven (11) degrees and twenty-one (21) minutes west three hundred sixty-seven (367) feet to pipe number one hundred three (103); thence east nine hundred sixty-nine and two-tenths (969.2) feet on section line between Section thirty-six (36), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M., and Section one (1), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M., to the point of be-
39 ginning as above described. Containing thirty-two and fifty-one hundredths (32.51) acres.

39. That said defendant J. G. Detling is the owner of the following described tract of land, to-wit:

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at a point from which the center of Section six (6), Township nineteen (19) south, Range twenty-seven (27) east, N. M. P. M., bears west five hundred three (503) feet distant, and marked by pipe number one hundred two (102); thence south fifty-seven (57) degrees and seventeen (17) minutes east eight hundred eighty-nine (889.5) and five-tenths feet; thence north thirteen (13) degrees and twenty (20)

minutes west four hundred ninety-four and one-tenth (494.1) feet to pipe number one hundred four (104); thence west six hundred thirty-four and five-tenths (634.5) feet on subdivision line to the point of beginning as above described. Containing one and seventy-six hundredths (1.76) acres.

40. That said defendant G. H. Scripps is the owner of the following described three tracts of land:

A tract of land in the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M.; thence south two (2) minutes east seven hundred eleven and two-tenths (711.2) feet on section line between Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., and Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M., to pipe number one hundred seventeen (117); thence south eighty-one (81) degrees and fifty-two (52) minutes west thirteen hundred forty-two and one-tenth (1342.1) feet to pipe number one hundred eighteen (118); thence north one (1) minute east four hundred eighty-three and seven-tenths (483.7) feet on subdivision line to pipe number one hundred twenty (120); thence north sixty-four (64) degrees and fifty-five (55) minutes east nine hundred eighty-one and two-tenths (981.2) feet to pipe number one hundred twenty-one (121); thence north eighty-nine (89) degrees and fifty-two (52) minutes east four hundred thirty-eight and seven-tenths (438.7) feet on subdivision line to the point of beginning as above described. Containing nineteen and ninety-three hundredths (19.93) acres.

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

40 Beginning at a point marked by pipe number one hundred eighteen (118) which bears north one (1) minute east four hundred fifteen and one-tenth (415.1) feet distant from the southeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east; thence north forty-nine (49) degrees and fifty-eight (58)

minutes west four hundred three and two-thirds (403.2) feet to pipe number one hundred nineteen (119); thence north fifty-four (54) degrees and four (4) minutes east three hundred eighty-two and two-tenths (382.2) feet to pipe number one hundred twenty (120); thence south one (1) minute west four hundred eighty-three and seven-tenths feet (483-7) on subdivision line to the point of beginning as above described. Containing one and sixty-seven hundredths (1.67) acres.

A tract of land in the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-two (52) minutes west four hundred thirty-eight and seven-tenths (438.7) feet on subdivision line to pipe number one hundred twenty-one (121); thence north fifty-two (52) degrees and nine (9) minutes east five hundred fifty-five and six-tenths (555.6) feet to pipe number one hundred twenty-two (122); thence south two (2) minutes east three hundred forty and eight-tenths (340.8) feet on section line between Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., and Section twenty-five (25), Township eighteen (18) south, Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing one and seventy-two hundredths (1.72) acres.

41. That the said defendants E. F. Hardwick and J. C. Minga are the owners of or claim an interest in the following described three tracts of land, to-wit:

A tract of land described as follows:

The southwest quarter (SW¼) of the southwest quarter (SW¼) of Section thirty (30), Township eighteen [(19)] south of Range Twenty-seven (27) east, New Mexico Principal Meridian, it being also fractional lot number four (4), containing forty and nine hundredths (40.09) acres.

A tract of land in the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section thirty (30), Township eighteen (18) south, Range twenty-seven (27) east, New Mexico Principal Meridian, (also described as Lot number three (3) of said section), described as follows;

Beginning at the southwest corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M.; thence north two (2) minutes
41 west eight hundred two and three-tenths (802.3) feet on section line between Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M., and section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., to pipe number one hundred twenty-three (123); thence north sixty-four (64) degrees and fifty-nine (59) minutes east twelve hundred thirty-two and six-tenths (1232.6) feet to pipe number one hundred twenty-four (124); thence south eighty-nine (89) degrees and fifty (50) minutes east on subdivision line two hundred two and three-tenths (202.3) feet to the northeast corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of said Section thirty (30); thence south one (1) minute west thirteen hundred twenty-four and one-tenth (1324.1) feet on subdivision line to the southeast corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of said Section thirty (30); thence north eighty-nine (89) degrees and fifty-three (53) minutes west thirteen hundred eighteen and three-tenths (1318.3) feet on subdivision line to the point of beginning as above described. Containing thirty-three and forty-two hundredths (33.42) acres.

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section thirty (30), (also described as lot number two (2) of said section), Township eighteen (18) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty (50) minutes west two hundred two and three-tenths (202.3) feet on subdivision line to pipe number one hundred twenty-four (124); thence north forty-four (44) degrees and forty-seven (47) minutes east two hundred eighty-seven (287) feet to pipe number one hundred twenty-five (125); thence south one (1) minute west two hundred four (204) feet on subdivision line to the point of beginning as above described. Containing twenty-four hundredths (.24) acres.

That plaintiff has attempted to purchase said three tracts last above described from said E. F. Hardwick but has been

unable to do so as plaintiff and said defendant Hardwick cannot agree upon the proper compensation to be paid therefor.

42. That said defendant Mrs. Marshall K. Holt is the owner of the following described tract of land, to-wit:

A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the center of Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty (50) minutes west thirteen hundred eighteen and nine-tenths (1318.9) feet to the southwest corner of the southeast quarter (SE¼) of the northwest quarter (NW¼) of said section; thence north one (1) minute east two hundred four (204) feet on subdivision line to pipe number one hundred twenty-five (125); thence north forty-four (44) degrees and
42 forty-seven (47) minutes east seventy-nine and seven-tenths (79.7) feet to pipe number one hundred twenty-six (126); thence north sixty-one (61) degrees and forty-eight (48) minutes east five hundred fifty-three (553) feet to pipe number one hundred twenty-seven (127); thence south eighty-nine (89) degrees and fifty (50) minutes east seven hundred and seventy-six and five-tenths (776.5) feet to pipe number one hundred twenty-eight (128); thence south five hundred twenty-two (522) feet on subdivision line to point of beginning as above described. Containing thirteen and eighty-nine (13.89) hundredths acres.

Wherefore, Plaintiff prays that this court may appoint three disinterested freeholders of the County of Eddy as Commissioners to assess the damages which the defendants herein, and each of them, have sustained in consequence of the taking and appropriation by plaintiff of all and singular the several tracts of land and real estate hereinbefore described, and that upon the payment by plaintiff to the clerk of this court for the use and benefit of said defendants, or any or either of them, of the amount of damages thus assessed and of the costs of this proceeding properly payable by plaintiff, the said tracts of land and real estate and all of them hereinbefore described may be adjudged and decreed by this court to be the property of plaintiff herein from the date of the said taking or the appropriation thereof by said plaintiff as aforesaid, to be held by it in fee simple for the uses

and purposes above set forth. Plaintiff further prays that its estate and title be established to each and all of the tracts of land herein described against the claims of each and all of the defendants herein, and that each and all of said defendants herein be barred and forever estopped from having or claiming any right or title to the premises, or any part thereof, adverse to plaintiff, and that plaintiff's title thereto be forever quieted and set at rest; and for such other and further relief as to the court may seem meet and proper in the premises.

S. BURKHART,
United States Attorney for the
District of New Mexico.

State of New Mexico,
County of Bernalillo,—ss.

P. W. Dent, being first duly sworn, on his oath deposes and says that he is District Counsel in the Reclamation Service of the United States of America and makes this affidavit for and on behalf of said United States; that he has heard read the foregoing petition and knows the contents thereof and that the same is true of his own knowledge except as to the matters and things therein alleged upon information and belief and as to those matters and things, he verily believes them to be true.

P. W. DENT.

Subscribed and sworn to before me this 13th day of January, 1915.

GEO. C. TAYLOR,
Notary Public.

My commission expires Mch. 10, 1918.

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43 (Order, July 27, 1917, directing Plaintiff to deposit with the Clerk of the District Court the sum of $6,557.06 for the use and benefit of certain Defendants, etc.)

Filed in the U. S. District Court, July 27, 1917.

The above entitled cause having heretofore come on for hearing upon the exceptions filed by plaintiff and certain of the defendants to the report of the Commissioners filed herein on February 3, 1917, and all of said exceptions, so far as they relate to the damages sustained by the defendants by the taking of the lands described in plaintiff's petition being overruled, save the exceptions filed to the awards made in favor of defendants Arthur A. Kaiser and Messrs. Crozier &

Humphreys, and the awards in favor of each of said defendants as to the lands described in plaintiff's petition being approved and confirmed, with the exceptions stated.

And it appearing to the court that the defendants hereinafter mentioned have not appealed from the awards of damages made in said report and the confirmation thereof by the court, as provided by law; and it further appearing that the appeal heretofore taken by plaintiff and cross appeal
44 by defendants in connection with the award to defendants H. L. Wilson and V. B. Short having been dismissed.

It is ordered, adjudged and decreed that the plaintiff deposit with the clerk of this court the aggregate sum of $6557.06 for the use and benefit of the several defendants hereinafter named, on account of the taking and appropriation by plaintiff of the tracts of land and property hereinafter described, and in accordance with the awards of the commissioners in said report set forth. The names of the defendants for whose use and benefit said several amounts are to be deposited, the tracts of land on account of which damages are awarded, and the amount of the damages awarded to each are, as follows:

Name of Defendant:—William E. Rogers.

1. Damages by taking and appropriation of the lands described in plaintiff's petition.

(a) Description of Land.

A tract of land in the northwest quarter (NW¼) of the southwest quarter (SW¼) of Section one (1), Township (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section one (1), Township nineteen (19) south of Range twenty-six (26) east N. M. P. M.; thence south eighty-nine (89) and forty-eight (48) minutes east thirteen hundred thirty-one and eight-tenths (1331.8) feet on subdivision line to the northeast corner of the northwest quarter (NW¼) of the southwest quarter (SW¼) of said section; thence south fifteen (15) minutes east eight hundred fifty-six and one-tenth (856.1) feet on subdivision line to pipe number ninety-one (91); thence south sixty-four (64) degrees and thirty-two (32) minutes west sixty-five and three-tenths (65.3) feet to pipe number ninety-

two (92); thence south seventy-two (72) degrees and
45 twenty-two (22) minutes west seven hundred sixty-four and six-tenths (764.6) feet to pipe number ninety-three (93); thence north twelve (12) degrees and twenty-five (25) minutes west nine hundred thirty-two (932) feet to pipe number ninety-four (94); thence north fifty-eight (58) degrees and sixteen (16) minutes west four hundred six and six-tenths (406.6) feet, to the point of beginning as above described. Containing twenty-one and sixteen hundredths (21.16) acres.

A tract of land in the southwest quarter (SW¼) of the northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) New Mexico Principal Meridian, described as follows:

Beginning at the west one-quarter (¼) corner of Section one (1), Township nineteen (19) south of Range twenty-six (26) east N. M. P. M.; thence north twelve (12) minutes west six hundred twenty and six-tenths (620.6) feet on section line between Sections one (1) and two (2), Township nineteen (19) south of Range twenty-six (26) east N. M. P. M. to pipe number ninety-eight; thence north fifty-four degrees and thirty-four (34) minutes east twelve hundred eight and five-tenths (1208.5) feet to pipe number ninety-nine (99); thence south eighty-nine (89) degrees and fifty-four (54) minutes east three hundred forty-three and seven-tenths (343.7) feet on subdivision line to the northeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said Section one (1); thence north eighty-nine (89) degrees and forty-eight (48) minutes west thirteen hundred thirty-one and eight-tenths (1331.8) feet on subdivision line to the point of beginning as above described, Containing thirty-two and five-hundredths (32.05) acres.

A tract of land in the northwest quarter (NW¼) of the Northwest quarter (NW¼) of Section one (1), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian described as follows:

Beginning at the southeast corner of the northwest
46 quarter (NW¼) of the northwest quarter (NW¼) of Section one (1); thence south fifteen (15) minutes east thirteen hundred twenty-three and two-tenths (1323.2) feet on subdivision line to the southeast corner of the southwest quarter (SW¼) of the northwest quarter (NW¼) of said section one (1), Township nineteen (19) south, Range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) de-

grees and fifty-four (54) minutes west three hundred forty-three and [seventh-tenths] (343.7) feet on subdivision line to pipe number ninety-nine (99); thence north fifty-nine (59) degrees and thirty-one (31) minutes east three hundred and ninety-eight and one-tenth (398.1) feet to pipe number one hundred (100); thence south fifteen (15) minutes east two hundred three and six-tenths (203.6) feet on subdivision line to the point of beginning as above described. Containing eighty-hundredths (.80) acres.

(b) Area.....54.01 acres

(c) Amount of damages.....$1512.00

Names of Defendants:—V. B. Short and H. L. Wilson, as their interests may be determined.

1. Damages by taking and appropriation of the lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the south one-quarter (¼) corner of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four (54) minutes east thirteen hundred twenty-five (1325) feet to the southwest corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of said section; thence north twenty-four minutes (24) east one hundred fifty-six and nine-tenths (156.9) feet to intersection with the west embankment of Lake McMillan;
47 thence north thirty-five (35) degrees and two (2) minutes west twelve hundred sixty-eight and four-tenths (1268.4) feet along center line of said embankment; thence north forty-six (46) degrees and thirty-four (34) minutes east one hundred eighty-two and five tenths (182.5) feet to intersection with subdivision line marked by pipe number thirteen (13); thence north eighty-nine degrees (89) and fifty-four (54) minutes west seven hundred ten (710) feet to the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of said section; thence south twenty-four (24) minutes east thirteen hundred fourteen and six-tenths (1314.6) feet to point of beginning as above de-

scribed. Containing twenty-seven and forty-nine hundredths (27.49) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four minutes east seven hundred ten (710) feet along subdivision line to pipe number thirteen (13); thence north forty-six (46) degrees and thirty-four (34) minutes east five hundred seventeen and five-tenths (517.5) feet along flow line of McMillan Reservoir at elevation thirty-two hundred sixty-five and six-tenths (3265.6) feet above mean sea level; thence north seventeen (17) degrees and forty-six minutes (46) east eight hundred (800) feet; thence north three (3) degrees and forty-two (42) minutes west one hundred ninety-seven and three-tenths feet (197.3) to point in subdivision line marked by pipe number sixteen (16); thence north eighty-nine (89) degrees and fifty-four (54) minutes west thirteen hundred eight (1308) feet along subdivision line to the center of said section; thence south twenty-four (24) minutes west thirteen hundred fourteen and six-tenths (1314.6) feet
48 to point of beginning as above described. Containing thirty-two and sixty-four hundredths (32.64 acres.

A tract of land in the southwest quarter (SW¼) of the northeast quarter (NE¼) of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the center of Section thirty-four (34), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-four (54) minutes east thirteen hundred eight (1308) feet along subdivision line to a point in the flow line of McMillan Reservoir at elevation thirty-two hundred sixty-five and six-tenths (3265.6) feet above mean sea level marked by pipe number sixteen (16); thence north three (3) degrees and forty-two (42) minutes west ten hundred two and seven-tenths (1002.7) feet; thence north thirteen (13) degrees and thirty-three (33) minutes east three hundred fourteen and four-tenths (314.4) to point in subdivision line marked by pipe number eighteen (18); thence north eighty-nine (89) degrees and fifty-four

(54) minutes west seven hundred ninety-five and nine-tenths (795.9) feet along subdivison line to point in flow line of McMillan Reservoir at elevation thirty-two hundred seventy-two and six-tenths (3272.6) feet above mean sea level marked by pipe number six (6); thence south thirty-three (33) degrees and thirty-five (35) minutes west nine hundred forty-four and three tenths (944.3) feet to point in subdivision line marked by pipe number five (5); thence south twenty-four (24) minutes west five hundred twenty-four and five-tenths (524.5) feet to point of beginning as above described. Containing thirty-two and fifteen-hundreths (32.15) acres.

(b) Area.....92.28 acres.

(c) Amount of damages.....$3563.00.

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49 Name of Defendants: S. F. Miles.

1. Damages by taking and an appropriation of the lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the northeast quarter of the southeast quarter ($NE\frac{1}{4}SE\frac{1}{4}$) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter ($NE\frac{1}{4}$) of the southeast quarter ($SE\frac{1}{4}$) of Section twenty-seven (27) Township nineteen (19) south of Range twenty-six (26) east N. M. P. M.; thence north twenty-eight (28) minutes east four hundred fifty-two and seven-tenths (452.7) feet along Section line to pipe number twenty-seven (27); thence north twenty (20) degrees and twenty (20) minutes west two hundred seventy-three and eight-tenths (273.8) feet; thence north forty (40) degrees and fifty-two (52) minutes east one hundred fifty (150) feet to pipe number twenty-nine (29); thence north twenty-eight minutes (28) east four hundred ninety-five (495) feet along section line to the east one-quarter ($\frac{1}{4}$) corner of said Section twenty-seven (27); thence north eighty-nine (89) degrees and fifty-seven minutes (57) west three hundred thirty-five (335) feet along subdivision line to pipe number twelve (12); thence south twenty-eight (28) degrees and thirty-one (31) minutes west fourteen hundred ninety-eight and three-tenths (1498.3) feet to pipe number eleven (11); thence south eighty-nine (89) degrees and fifty-five (55) minutes east ten hundred thirty-eight and nine-

tenths (1038.9) feet to point of beginning as above described. Containing nineteen and seventy-five hundredths (19.75) acres.

(b) Area .....19.75 acres

(c) Amount of damages.....$553.00

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50 Name of Defendant: GEORGE N. UPHAM.

1. Damages by taking and appropriation of the lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the south twelve (12) acres of the southeast quarter (SE¼) of the northeast quarter (NE¼) of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the east one quarter (¼) corner of Section twenty-seven (27), Township nineteen (19) south of range twenty-six (26) east, N. M. P. M.; thence north eighty-nine (89) degrees and fifty-seven (57) minutes west three hundred thirty-five (335) feet on subdivision line to pipe number twelve (12); thence north twelve (12) degrees and twenty-nine (29) minutes west four hundred five and three-tenths (405.3) feet to pipe number thirteen (13); thence south eighty-nine (89) degrees and fifty-six (56) minutes east four hundred twenty-two and six-tenths (422.6) feet on property line; thence south twenty-eight (28) minutes west three hundred ninety-five and seven-tenths (395.7) feet on section line to the point of beginning as above described. Containing three and forty-four hundredths (3.44) acres.

(b) Area .....3.44 acres.

(c) Amount of damages.....$68.88

Name of Defendants: BRYANT BANTA and J. C. MINGS (Minga), as their interest may be determined.

1. Damages by taking and appropriation of the lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the north twenty-eight (28) acres of the southeast quarter (SE¼) of the northeast quarter (NE¼) of

Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

51 Beginning at a point on section line between Sections twenty-six (26) and twenty-seven (27) in Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., which bears north twenty-eight (28) minutes east three hundred ninety-five and seven-tenths (395.7) feet distant from the east one-quarter (¼) corner of Section twenty-seven (27), Township nineteen (19) south of Range twenty-six (26) east, marked by a stone; thence north eighty-nine (89) degrees and fifty-six (56) minutes west four hundred twenty-two and six-tenths (422.6) feet on property line to pipe number thirteen (13); thence north twenty-nine (29) degrees east three hundred sixty-four and three-tenths (364.3) feet to pipe number fourteen (14); thence north sixty-eight (68) degrees and thirty-one (31) minutes east two hundred seventy-one and eight-tenths (271.8) feet to point on section line between sections twenty-six (26) and twenty-seven (27) in Township nineteen (19) south of Range twenty-six (26) east, marked by pipe number fifteen (15); thence south twenty-eight (28) minutes west four hundred nineteen and five-tenths (419.5) feet to point of beginning as above described. Containing two and seventy-nine hundredths acres (2.79).

(b) Area ..... 2.79 acres.

(c) Amout of damages..... $195.30

Name of Defendant: HENRY ZAJIC.

1. Damages by the taking and appropriation of lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the southeast quarter (SE¼) of the northwest quarter (NW¼) of section thirteen (13) Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

52 Beginning at the center of section thirteen (13), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine degrees (89) and fifty-nine (59) minutes west three hundred thirty-five and one-tenth (335.1) feet on subdivision line to pipe number forty-nine (49); thence north fifty-four (54) degrees and forty-one

(41) minutes east four hundred ten and three-tenths (410.3) feet to pipe number fifty (50); thence south fourteen (14) minutes east two hundred thirty-two and two-tenths (232.2) feet on subdivision line to the point of beginning as above described. Containing ninety-five hundredths (.95) acres.

(b) Area ..... .95 acres.

(c) Amount of damages .....$35.00.

Name of Defendant: CURTIS V. YOH.

1. Damages by the taking and appropriation of lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section seven (7) Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the northwest corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence south twenty-seven (27) minutes east eight hundred ninety-two and one-tenth (892.1) feet on subdivision line to pipe number seventy-five (75); thence north fifty-four (54) degrees and fifty- (50) minutes east eight hundred fifty-seven and seven-tenths (857.7) feet; thence north twenty-eight (28) degrees and twenty-five (25) minutes east four hundred fifty-one and five-tenths (451.5) feet to pipe number seventy-eight (78); thence west
53 four hundred ninety-three and four-tenths (493.4) feet on subdivision line to the point of beginning as above described. Containing seven and sixty-nine hundredths (7.69) acres.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at the southwest corner of the northwest quarter of the southeast quarter of Section seven (7), Township nineteen (19) south of Range twenty-seven (27) east, N. M. P. M.; thence east four hundred ninety-three and four-tenths (493.4) feet on subdivision line to pipe number seventy-eight (78); thence north twenty-eight (28) degrees and twenty-five (25) minutes west five hundred forty-eight and five-tenths (548.5)

feet; thence north seventy-five (75) degrees and fifty-nine (59) minutes west two hundred forty-four and nine-tenths (244.9) feet to pipe number eighty- (80); thence south twenty-seven (27) minutes east five hundred forty-one and seven-tenths (541.7) feet on subdivision line to the point of beginning as above described. Containing three and two-hundredths (3.02) acres.

(b) Area .....10.71 acres.

(c) Amount of damages.....$299.88

Name of Defendant: MARY Z. MCCRILLIS.

1. Damages by the taking and appropriation of lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the southeast quarter (SE¼) of the norfheast quarter (NE¼) of Section two (2), Township nineteen (19) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

54 Beginning at the east one-quarter (¼) corner of Section two (2), Township nineteen (19) south, of Range twenty-six (26) east, N. M. P. M., marked by pipe number ninety-five (95); thence north fifty-nine (59) degrees and thirty-four (34) minutes west three hundred eighty-one and five-tenths (381.5) feet to pipe number ninety-six (96); thence north eighteen (18) degrees and thirty-one (31) minutes east one hundred forty-six and four-tenths (146.4) feet to pipe number ninety-seven (97); thence north forty-five degrees and fifty-two minutes (45 d. 52 m.) east four hundred three (403) feet to pipe number ninety-eight (98); thence south twelve (12) minutes east six hundred twenty and six-tenths (620.6) feet on section line between Sections one (1) and two (2), Township nineteen (19) south of Range twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing two and sixty-four hundredths (2.64) acres.

(b) Area.....2.64 acres.

(c) Amount of damages.....$79.20.

Name of Defendant:—J. G. DETLING.

1. Damages by the taking and appropriation of lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the northwest quarter (NW¼) of the southeast quarter (SE¼) of Section six (6), Township nineteen (19) south of Range twenty-seven (27) east, New Mexico Principal Meridian, described as follows:

Beginning at a point from which the center of Section six (6), Township nineteen (19) south, Range twenty-seven (27) east, N. M. P. M., bears west five hundred three (503) feet distant, and marked by pipe number one hundred two (102); thence south fifty-seven (57) degrees and seventeen (17) minutes east eight hundred eighty-nine (889.5) and five-tenths feet; thence north thirteen (13) degrees and twenty (20) minutes west four hundred ninety-four and one-tenth (494.1) feet to pipe number one hundred four (104); thence west
55 six hundred thirty-four and five-tenths (634.5) feet on subdivision line to the point of beginning as above described. Containing one and seventy-six hundredths (1.76) acres.

(b) Area .....1.76 acres.

(c) Amount of damages.....$17.60

Name of Defendant:—G. H. SCHRIPPS.

1. Damages by the taking and appropriation of lands described in plaintiff's petition.

(a) Description of land.

A tract of land in the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the northeast corner of the southeast quarter (SE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range Twenty-six (26) east, N. M. P. M.; thence south two (2) minutes east seven hundred eleven and two-tenths (711.2) feet on section line between Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., and Section twenty-five (25), Township eighteen (18) south of Range

twenty-six (26) east, N. M. P. M., to pipe number one hundred seventeen (117); thence south eighty-one (81) degrees and fifty-two (52) minutes west thirteen hundred forty-two and one-tenth (1342.1) feet to pipe number one hundred eighteen (118); thence north one (1) minute east four hundred eighty-three and seven-tenths (483.7) feet on subdivision line to pipe number one hundred twenty (120); thence north sixty-four (64) degrees and fifty-five (55) minutes east nine hundred eighty-one and two-tenths (981.2) feet to pipe number one hundred twenty-one (121); thence north eighty-nine (89) degrees and fifty-two (52) minutes east four hundred thirty-eight and seven-tenths (438.7) feet on subdivision line to the point of beginning as above described. Containing nineteen and ninety-three hundredths (19.93) acres.

56 A tract of land in the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at a point marked by pipe number one hundred eighteen (118) which bears north one (1) minute east four hundred fifteen and one-tenth (415.1) feet distant from the southeast corner of the southwest quarter (SW¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east; thence north forty-nine (49) degrees and fifty-eight (58) minutes west four hundred three and two-tenths (403.2) feet to pipe number one hundred nineteen (119); thence north fifty-four (54) degrees and four (4) minutes east three hundred eighty-two and two-tenths (382.2) feet to pipe number one hundred twenty (120); thence south one (1) minute west four hundred eighty-three and seven-tenths (483.7) feet on subdivision line to the point of beginning as above described. Containing one and sixty-seven hundredths (1.67) acres.

A tract of land in the northeast (NE¼) quarter of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, New Mexico Principal Meridian, described as follows:

Beginning at the southeast corner of the northeast quarter (NE¼) of the southeast quarter (SE¼) of Section twenty-five (25), Township eighteen (18) south of Range twenty-six (26) east, N. M. P. M.; thence south eighty-nine (89) degrees and fifty-two (52) minutes west four hundred thirty-eight and seven-tenths (438.7) feet on subdivision line to pipe num-

ber one hundred and twenty-one (121); thence north fifty-two (52) degrees and nine (9) minutes east five hundred fifty-five and six-tenths (555.6) feet to pipe number one hundred twenty-two (122); thence south two (2) minutes east three hundred forty and eight-tenths (340.8) feet on section line between Section thirty (30), Township eighteen (18) south of Range twenty-seven (27) east, N. M. P. M., and Sec-
57 tion twenty-five (25), Township eighteen (18) south, Range Twenty-six (26) east, N. M. P. M., to the point of beginning as above described. Containing one and seventy-two hundredths (1.72) acres.

(b) Area .....23.32 acres.

(c) Amount of damages.....$233.20.

It is further ordered, adjudged and decreed, that upon the deposit by plaintiff with the clerk of this court, of the amounts awarded to the several defendants, as hereinbefore set forth, the United States of America shall be let into the possession of all and singular, the premises described, to have and to hold the same for the uses and purposes set forth in the petition herein filed.

It is further ordered, adjudged and decreed that the clerk of this court, after the deposit with him of the said several sums of money awarded to the said defendants, as herein provided, pay over to the said defendants, the sums of money so awarded to them by issuing checks therefor in the names of the respective defendants, and by delivering said checks to their rsepective attorneys of record, taking the receipts of said attorneys of record for said checks, and where defendants are not represented b yattorneys of record, that said checks be delivered b ythe clerk to therespective defendants in person or by mail.

Jurisdiction is hereby retained for such further orders and judgments as may be hereafter necessary as to any defendants whose claims are not dealt with hereby.

Done at Sante Fe, New Mexico, this 27th day of July, A. D. 1917.

COLIN NEBLETT Judge.

58 (Motion for Supplemental Order, requiring Plaintiff to deposit with the Clerk of the District Court, a sum equal to 6% Interest on the principal sum of $6,557.06, from April 19, 1912, until the date of deposit of such principal sum, etc.)

Come now Messrs. Reid & Hervey and George S. Downer, attorneys of record for various defendants in the above entitled cause, and respectively move the court to enter an order herein supplemental to its order of July 27th, 1917, requiring plaintiff to deposit with the Clerk of this court a sum equal to 6 per cent interest on the sum of $6,557.06, from April 19, 1912, until the date of such deposit, for the use and benefit of the several defendants named in such order on account of the taking and appropriation by plaintiff of the tracts of land and property described in such order, all in accordance with the award of the Commissioners appointed by the court, and as grounds for such motion, represent to the court:

1. That in Paragraph 3-¾ of plaintiff's petition in this cause, the following allegation appears:

"That for the purpose of carrying out the provisions of said Acts of Congress of June 17, 1902, and the other acts of Congress amendatory thereof and supplementary thereto, hereinbefore referred to, and in order to provide for
59 the storage of additional water to be impounded by said additional works, and for other necessary purposes connected with said project, it became necessary, and the Secretary of the Interior determined that it was necessary to acquire certain lands and real estate of the said defendants situated in the County of Eddy and State of New Mexico, and at the date of the completion of said additional works, to-wit, April 19, 1912, the said lands of said defendants hereinafter described were flooded and thereby appropriated by the Government of the United States under authority of the said acts of Congress aforesaid for said necessary purposes, but no compensation therefor has been up to this time paid for the said lands so appropriated as aforesaid by the Secretary of the Interior;"

2. That said allegation in plaintiff's petition above quoted was admitted by all parties to this action, and same should, therefore, be considered as a fact;

3. That the Commissioners heretofore appointed by the court, in making their report and in fixing the award for damages to the various defendants for lands appropriated

and described in plaintiff's petition, considered same in accordance with the valuation of the various lands on April 19, 1912, and added no interest to such awards by reason of the time intervening between the date of the taking and the date of their report, the language employed in said report of the Commissioners being as follows:

"This Commission finds, from the statements of counsel representing both the plaintiff and defendants, and reports to the court, that the damages by sub-irrigation and damages by reason of the taking alleged in plaintiff's petition occurred on the 19th day of April 1912, and that the damages by submersion of the lands to the east and south of the so-called P. I. & I. countour line [occured] approximately on the 1st day of August 1910, and this Commission, in fixing their
60 award and assessment hereinafter set forth, computed the same as of these dates, and no interest has been added thereto for the time intervening between the date of such taking and such damage, and the date of the filing of plaintiff's petition, or the date of this report."

4. That the order of the court of July 1917, was entered without any hearing in the premises, and the above named counsel were not present or in court at the time, and the failure of the court to include in such order a direction that the amounts ordered to be paid in should include interest, and the failure of such order to so include the interest charge was but recently discovered by counsel.

REID & HERVEY
GEORGE S. DOWNER
Attorneys for various defendants.

Albuquerque and Roswell, N. M.

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61 (Supplemental Order, October 1, 1917, requiring Plaintiff to deposit with the Clerk of the District Court, a sum equal to 6% Interest on the principal sum of $6,557.06, from April 19, 1912 until the date of the deposit of such principal sum, etc.)

Filed in the U. S. District Court, October 1, 1917.

The above matter coming on to be heard upon the motion of Messrs. Reid & Hervey and George S. Downer, attorneys of record for various defendants in the above entitled cause, for an order supplemental to the court's order of July 1917,

requiring plaintiff to pay into court the sum of $6,557.06, and both parties being represented in open court by counsel, after hearing the argument of counsel and being fully advised as to the facts and law in the premises,

It Is Ordered, Adjudged and Decreed by the court that plaintiff, the United States, be, and it hereby is, ordered and required to deposit with the Clerk of the court a sum equal to 6 per cent interest on the principal sum of $6,557.06 from April 19, 1912, until the date of the deposit of such principal sum, for the use and benefit of the several defendants named in the order of this court of July, on account of the taking and appropriation by plaintiff of the tracts of land and property described in such order, all in accordance with the award of the Commissioners appointed by the court.

To which order and decree, plaintiff, by its attorney, duly excepts.

Done at Santa Fe, N. M., this 1st day of October, A. D. 1917.

COLIN NEBLETT, Judge.

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62 (Petition for Writ of Error.)

Filed in the U. S. District Court, March 29, 1918.

To the Honorable Colin Neblett, District Judge:

The above named petitioner, the United States of America, feeling aggrieved by the judgment entered in the above entitled cause on the 1st day of October A. D., 1917, awarding William E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. C. Mings (Minga), Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps interest at 6 per cent per annum from April 19, 1912, to date of deposit in court on the amounts awarded said parties by the judgment entered on July 27, 1917, does hereby apply for a writ of error from the Circuit Court of Appeals for the Eighth Circuit for the reasons set forth in the assignment of errors filed herewith, and prays that the said writ of error may be allowed and that citation issue as provided by law, and that a transcript of the record upon which said judgment was based, duly authenticated, be sent

to the said United States Circuit Court of Appeals, under the rules of said court in such cases made and provided.

S. BURKHART,
United States Attorney.

P. W. DENT,
District Counsel, U. S. Reclamation Service.

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63 (Assignment of Errors.)

Filed in the U. S. District Court, March 29, 1918.

Now comes the petitioner in the above entitled case and files the following assignment of errors upon which it will rely upon its prosecution of its writ of error in the above entitled cause, to the judgment entered by this court on the 1st day of October, A. D. 1917:

I

That the United States District Court for the District of New Mexico erred in awarding interest against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that interest can not properly be allowed in a condemnation case against the United States for any period prior to date of final judgment.

II

That the United States District Court for the District of New Mexico erred in awarding interest against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that interest can not properly be allowed in a condemnation case against the United States for any period prior to date of order of the court placing the United States in possession of the lands condemned.

III

That the United States District Court for the District of New Mexico erred in awarding interest at the rate of
64 six per cent per annum against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that there is no authority of law for allowing interest at said rate on judgments against the United States.

Wherefore petitioner prays that said judgment or order be reversed and that said District Court for the District of New

Mexico be ordered to enter a decree reversing the decision of the lower court in said cause.

S. BURKHART,
United States Attorney.

P. W. DENT,
District Counsel, U. S. Reclamation Service.
Attorneys for Petitioner.

65

(Order allowing Writ of Error.)

Filed in the U. S. District Court, March 29, 1918.

This 29th day of March, 1918, came the plaintiff, by J. O. Seth, Esq., Assistant United States Attorney, and P. W. Dent, Esq., District Counsel for the U. S. Reclamation Service, and filed herein and presented to the court, its petition praying for the allowance of a writ of error, and assignment of errors intended to be urged by it, praying also, that a transcript of the record, proceedings and papers on which the judgment and order appealed from was rendered, duly authenticated, may be sent to the United States Circuit Court of Appeals for the Eighth Judicial Circuit, and that such other and further proceedings may be had as may be proper in the premises;

On consideration whereof, the court does allow the writ of error as prayed.

COLIN NEBLETT.
U. S. District Judge.

66

(Praecipe for Transcript.)

Filed in the U. S. District, March 29, 1918.

To the Clerk of the above-named court:

A writ of error having been allowed in the above entitled cause under date of March 29, 1918, plaintiff in error designates the following-named papers as necessary for the consideration of the errors assigned:

1.—Petition of plaintiff:

2.—Order of July 27, 1917:

3.—Motion of defendants, filed September 27, 1917, for supplemental order requiring payment of interest.

4.—Supplemental order of October 1, 1917, directing the deposit of interest.

The Clerk of the Court will therefore send to the United States Circuit Court of Appeals, Eighth Circuit, copies of the above mentioned papers.

S. BURKHART.
U. S. Attorney.
P. W. DENT.
District Counsel, U. S.
Reclamation Service.
Attorneys for plaintiff in error.

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67 (Clerk's Certificate to Transcript.)

The United States of America,
District of New Mexico—ss.

I, Wyly Parsons, Clerk of the District Court of the United States for the District of New Mexico, do hereby certify that the foregoing transcript, consisting of 66 pages constitutes a full, true and correct copy of the proceedings had and orders entered in the above entitled cause, as set forth therein; as the same appears on file and of record in this office, with the exception of the writ of error and the citation, herewith attached, at pages one and two respectively, which are the original writ and citation.

The foregoing constitutes the entire transcript in said cause, as designated by praecipe duly filed by the plaintiff-in-error, and copy of which appears at page 66 of said transcript.

Witness by hand and the official seal of said court, at Santa Fe, New Mexico, this 22nd day of May, A. D., 1918.

Seal
U. S. Dist Court
Dist. of
New Mexico
1912

WYLY PARSONS
Clerk.

Filed May 25 1918 E. E. Koch Clerk

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75 And thereafter the following proceedings were had in said cause, in the Circuit Court of Appeals, viz:

(Appearance of Mr. P. W. Dent as counsel for plaintiff in error.)

United States Circuit Court of Appeals, Eighth Circuit.

THE UNITED STATES OF AMERICA, plaintiff in error,
vs.
WILLIAM E. ROGERS et al. } No. 5166.

The clerk will enter my appearance as counsel for the plaintiff in error.

P. W. DENT,
El Paso, Texas.

(Endorsed:) Filed in U. S. Circuit Court of Appeals May 31, 1918.

(Appearance of Mr. S. Burkhart, United States attorney, as counsel for plaintiff in error.)

The clerk will enter my appearance as counsel for the plaintiff in error.

S. BURKHART,
U. S. Atty. for N. M.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 6, 1918.

76 (Appearance of Mr. W. C. Reid and Mr. George S. Downer as counsel for defendants in error.)

The clerk will enter my appearance as counsel for the defendants in error.

J. M. HERVEY,
W. C. REID,
GEORGE S. DOWNER,
Albuquerque, N. M.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Dec. 9, 1918.

(Appearance of Mr. J. M. Hervey as counsel for defendants in error.)

The clerk will enter my appearance as counsel for the defendants in error.

J. M. HERVEY.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Dec. 11, 1918.

(Appearance of Mr. Earl C. Iden as counsel for defendants in error.)

The clerk will enter my appearance as counsel for the defendants in error.

EARL C. IDEN.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Dec. 16, 1918.

77 (Order of submission.)

December term, 1918.

THURSDAY, *December 12, 1918.*

UNITED STATES OF AMERICA, plaintiff in error, *vs.* WILLIAM E. ROGERS et al.	No. 5166. In error to the District Court of the United States for the District of New Mexico.

and

UNITED STATES OF AMERICA, plaintiff in error, *vs.* MARGIE L. HIGHSMITH.	No. 5263. In error to the District Court of the United States for the District of New Mexico.

These causes having been called for hearing this day are, pursuant to stipulation of parties, argued together, and the argument was commenced by Mr. P. W. Dent for plaintiff in error, continued by Mr. J. M. Hervey for defendants in error, and concluded by Mr. P. W. Dent for plaintiff in error.

Thereupon, these causes were submitted to the court on the transcripts of the records from said district court and the briefs of counsel filed herein, and if it is deemed advisable the same will be submitted on the records and briefs to a third judge.

78 (Opinion.)

United States Circuit Court of Appeals, Eighth Circuit.

December term, A. D. 1918.

THE UNITED STATES OF AMERICA, PLAINTIFF in error. *vs.* WILLIAM E. ROGERS ET AL., DEFENDANTS IN in error.	No. 5166. In error to the District Court of the United States for the District of New Mexico.

Mr. P. W. Dent, district counsel, United States Reclamation Service (Mr. S. Burkhart, United States attorney, and Mr. J. O. Seth, assistant United States attorney, were with him on the brief), for plaintiff in error.

Mr. J. M. Hervey (Mr. W. C. Reid and Mr. George S. Downer were with him on the brief), for defendants in error.

Before HOOK, circuit judge, and TRIEBER, district judge.

HOOK, circuit judge, delivered the opinion of the court.

This is a writ of error by the Government to review awards in condemnation proceedings instituted by it in the court below (act of Aug. 1, 1888, 25 stat., 357; reclamation act of July 17, 1902, 32 Stat.,

388). The only questions involved are whether the landowners are entitled to interest as part of the awards, and, if so, from what time and at what rate.

Lands of the defendants in error in New Mexico were appropriated by the Government for public use in a reclamation project. They were actually taken by flooding on April 19, 1912, and private use and enjoyment thereafter were destroyed. Formal proceedings in condemnation were not begun until January 18, 1915, when the
79 Government filed its petition in the court below for that purpose. The petition expressly averred that the lands "were flooded and thereby appropriated by the Government of the United States" on April 19, 1912, but that no compensation had yet been paid. The prayer of the petition asked, among other things, that the lands be decreed to be the property of the Government "from the date of the said taking or the appropriation thereof." Commissioners were appointed to assess the damages. Their report, February 23, 1917, was confirmed by the court, and on July 27, 1917, the Government was directed to pay the awards to the clerk for the benefit of the defendants in error. The commissioners followed the customary practice of valuing the property as of the time of appropriation, and they therefore stated in their report that the amounts awarded were as of April 19, 1912, also that they had included therein no interest to the time the Government's petition was filed or to the date of their report. Upon motion of the defendants in error the court, by supplemental order on October 1, 1917, required the Government to deposit with the clerk, in addition to the amount of the awards, a sum equal to interest thereon at 6 per cent per annum from April 19, 1912, to the time the deposit was made. The addition required was not interest as such but a sum equal to interest.

It is urged that no interest can be allowed against the United States in a condemnation case for any period prior to final judgment or for any period prior to an order of the court placing the United States in possession of the lands condemned; also that irrespective of the time for computation there is no authority of law for a rate of 6 per cent. Among the many authorities relied on is United States v. Baird, 127 U. S. 251, 260, where the court said:

"It has been established, as a general rule, in the practice of the Government, that interest is not allowed on claims against it, whether such claims originate in contract or in tort, and whether they arise in the ordinary business of administration or under private acts of relief, passed by Congress on special application. The only recognized exceptions are, where the Government stipulates to pay interest and where interest is given expressly by an act of Congress, either by the name of interest or by that of damages."

Section 177 of the Judicial Code (Rev. Stats., sec. 1091) provides:

"No interest shall be allowed on any claim up to the time
80 of the rendition of judgment thereon by the Court of Claims unless upon a contract expressly stipulating for the payment of interest." Without further reference to the many authorities cited,

it may be said that the position of the Government is fully illustrated by the above excerpt and statute. We think that the question is settled in this court by United States v. Sargent, 89 C. C. A. 81, 162 Fed., 81, in which interest at 6 per cent was allowed in a similar case as a part of the "just compensation" required by the fifth amendment to the Constitution. In the matter of the time and the rate of interest the court followed the rule in Minnesota, where the property was located and the condemnation proceedings were had. The case was taken to the Supreme Court but was afterwards dismissed on the motion of the Solicitor General. In New Mexico, where the case at bar arose, the legal rate is 6 per cent. In Atchison, T. & S. F. R. Co. v. Richter, 20 N. M., 278, 148 Pac. 478, it was held that the owner should have interest "from the time his possession is invaded, either with or without an order of court."

In the rule of immunity of the Government from liability for interest the term "interest" is generally used as meaning compensation for the use or forbearance of money, or damages for its detention. But the position of the Government in the case at bar is not like that which it occupies when a claim or demand on contract is asserted against it. True, it is said that when the Government takes possession of private property for public use in advance of formal proceedings in eminent domain, the right of the acquiescing owner arises ex contractu (United States v. Great Falls Mfg. Co., 112 U. S., 645); but that is by way of implication that compensation is intended by the Government instead of a trespass for which the landowner has no enforcible remedy. The duty and obligation to make just compensation in such a case is fundamental, and whatever is an essential element in that compensation can not be excluded even by legislative enactment. The question of compensation is a judicial one. Monongahela Navigation Co. v. United States, 148 U. S., 312, 327.

Just compensation rests on equitable principles and it means substantially that the owner should be put in as good position pecuniarily as he would have had if his property had not been taken. United States v. Nahant, 82 C. C. A., 470; 153 Fed., 520. When in the exercise of its sovereign power the Government actually appropriates and takes possession of private property in advance of proceedings in condemnation, interest from the time of taking is in a sense a convenient commutation of the value of the use of the property or the direct loss the owner sustains until the value of the property itself is paid by deposit in court or otherwise. Something of substance is lacking in an award that omits all consideration of the time of the prior actual taking. That would be obvious in the case of a completed office building, and the difference here is but in degree, not in principle. An instance in which interest was regarded as an integral part of the principal sum in issue and not within the statutes and decisions exempting the Government may be found in United States v. New York, 160 U. S., 598, 619. That was not a case of appropriation of private property, but there is a

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relevant analogy. In United States v. Cress, 243 U. S., 316, 319, the judgment of the District Court, which was affirmed, embraced interest, but the period for which it was allowed does not definitely appear. United States v. First Nat. Bank, 250 Fed., 299, is in point. There the Government took possession of property some months before commencing condemnation proceedings in the District Court. In instructing the commissioners respecting their duties the court said: "The sole question for you to determine, in each one of the cases, is the value of the lands and the property at the time of the actual taking and occupation by the United States, together with interest at the rate of 8 per cent per annum, the legal rate in Alabama, on said sums so ascertained by you, from the date of such actual taking and occupation." The proceedings in that case were under the act of July 2, 1917, 40 Stat., 241, which provided that they "should be prosecuted in accordance with the laws relating to suits for the condemnation of property of the States wherein the proceedings may be instituted." But as regards the essential elements of the just compensation to be paid, the requirement is not different from the conformity provisions of sec. 2 of the act of August 1, 1888, supra, applicable to the case at bar.

The order is affirmed.

Filed March 25, 1919.

82 (Judgment.)

United States Circuit Court of Appeals, Eighth Circuit.

December term, 1918.

TUESDAY, *March 25, 1919.*

THE UNITED STATES OF AMERICA, PLAINTIFF IN ERROR, *vs.* WILLIAM E. ROGERS, V. B. SHORT, H. L. WILSON, S. F. MILES, GEORGE N. UPHAM, BRYAN BANTA, J. C. MINGS (MINGA), HENRY ZAJIC, CURTIS V. YOH, MARY Z. MCCRILLIS, J. G. DETLING, and G. H. SCRIPPS.	No. 5166.

In error to the District Court of the United States for the District of New Mexico.

This cause came on to be heard on the transcript of the record from the District Court of the United States for the District of New Mexico, and was argued by counsel.

On consideration whereof, it is now here ordered and adjudged by this court that the judgment of the said District court in this cause be, and the same is hereby, affirmed without costs to either party in this court.

MARCH 25, 1919.

(Petition for writ of error from Supreme Court, U. S.)

To the honorable judges of the United States Circuit Court of Appeals, Eighth Circuit:

The above-named plaintiff in error, the United States of America, feeling aggrieved by the judgment entered in the above-entitled
83 cause on the 25th day of March, A. D. 1919, affirming the judgment of the United States District Court for the District of New Mexico, awarding William E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. C. Mings (Minga), Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps interest at six per cent (6%) per annum from April 19, 1912, to date of deposit in court, on the amounts of compensation awarded said parties by the judgment entered by said District Court on July 27, 1917, does hereby apply for a writ of error from the United States Supreme Court, for the reasons set forth in the assignment of errors filed herewith, and prays that the said writ of error may be allowed, and that ci'ation issue as provided by law, and that a transcript of the record upon which said judgment was based, duly authenticated, be sent to the said United States Supreme Court, under the rules of said court in such cases made and provided.

S. BURKHART,
United States Attorney for the Dist. of New Mexico.
A. MITCHELL PALMER,
Attorney General.

(Endorsed:) Filed in U. S. Circuit Court of Appeals, Jun. 24, 1919.

(Assignment of errors on writ of error from Supreme Court, U. S.)

Now comes the plaintiff in error in above-entitled cause and files the following assignment of errors upon which it will rely upon prosecution of its writ of error in above-entitled cause, to the judgment entered by this court on the 25th day of March, A. D. 1919.

I. That the United States Circuit Court of Appeals, for the 8th Circuit, erred in affirming the judgment of the United States District Court for the District of New Mexico entered October 1, A. D. 1917,
84 awarding interest against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that interest is not properly and legally allowable in a condemnation case against the United States for any period prior to date of final judgment.

II. That the United States Circuit Court of Appeals, 8th Circuit, erred in affirming the said judgment of the United States District Court for the District of New Mexico awarding interest against the United States from April 19, 1912, to cate of deposit of awards in court, for the reason that interest is not properly and legally allowable in a condemnation case against the United States for any period prior to date of order of court placing the United States in possession of the lands condemned.

III. That the United States Circuit Court of Appeals, 8th Circuit, erred in affirming the said judgment of the United States District Court for the District of New Mexico in awarding interest against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that interest is not properly allowable by the court, as a matter of law, to be added to the award of the Commissioners, the question of whether or not additional compensation as an element of damage on account of use and occupation of the lands condemned prior to the date of judgment in condemnation or payment of compensation, being a matter for the decision of the commissioners or jury, in the light of the conditions prevailing.

IV. That the United States Circuit Court of Appeals, 8th Circuit, erred in affirming the said judgment of the United States District Court for New Mexico, in awarding interest as aforesaid, for the reason that the defendants, prior to the report of the commissioners, fixing their compensation and the confirmation of said report by the court, did not demand interest in their pleadings, and did not request the commissioners to allow interest or additional compensation as damages in lieu thereof, on account of the use of the premises appropriated prior to judgment in condemnation or payment of compensation, and the court was not requested to instruct
the commissioners to allow interest or additional compen-
85 sation in their judgment, such interest or extra compensation should be allowed in the circumstances.

V. That the United States Circuit Court of Appeals, 8th Circuit, erred in holding that, as a matter of law, interest is a part of the just compensation guaranteed by the Constitution of the United States, and that such interest should be allowed by the court as a matter of law from April 19, 1912, to date of deposit of awards in court.

VI. That the United States Circuit Court of Appeals, 8th Circuit, erred in affirming the decision of the United States District Court for the District of New Mexico in awarding interest at the rate of six per cent (6%) per annum against the United States from April 19, 1912, to date of deposit of awards in court, for the reason that there is no authority of law for allowing interest at said rate on judgments against the United States.

Wherefore, plaintiff in error prays that said judgment or order be reversed and that said United States District Court for the District of New Mexico be ordered to enter a decree reversing the decision of the lower court in said cause.

S. BURKHART,
United States Attorney for
the District of New Mexico.
A. MITCHELL PALMER,
Attorney General.

(Endorsed) : Filed in U. S. Circuit Court of Appeals, Jun. 24, 1919.

(Order allowing writ of error from Supreme Court, U. S.)

On this 23rd day of June, A. D. 1919, came the plaintiff in error, the United States of America by P. W. Dent, Dist. counsel, U. S. Reclamation Service, and presented to the court its petition praying for the allowance of a writ of error, together with assignment
86 of errors intended to be urged by it. Praying also that a transcript of the record, proceedings and papers on which the judgment and order appealed from was rendered, duly authenticated, may be sent to the United States Supreme Court, and that such other and further proceedings may be had as may be proper in the premises:

On consideration whereof the court does allow the writ of error as prayed.

WALTER I. SMITH,
Judge of the United States Circuit Court of Appeals, 8th Circuit.

Council Bluffs, Iowa, June 23, 1919.

(Endorsed): Filed in U. S. Circuit Court of Appeals, Jun. 24, 1919.

87 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable judges of the United States Circuit Court of Appeals, Eighth Circuit, greeting:

Because, in the records and proceedings, as also in the rendition of the judgment of a plea which is in the said United States Circuit Court of Appeals, 8th Circuit, before you, or some of you, between the United States of America and Williams E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. C. Mings (Minga), Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps a manifest error hath happened, to the great damage of the said the United States of America, as by its complaint appears.

We being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the United States Supreme Court, together with this writ, so that you have the said record and proceedings aforesaid, at the city of Washington, District of Columbia, and filed in the office of the clerk of the United States Supreme Court, on or before the 20th day of August, 1919, to the end that the record and proceedings aforesaid being inspected, the United States Supreme Court may cause further to be done therein to correct that error, what of

right, and according to the laws and customs of the United States, should be done.

Witness, the Honorable Edward D. White, Chief Justice
88 of the United States, this 24th day of June, in the year of our Lord one thousand nine hundred and nineteen.

Issued at office in the city of St. Louis, Missouri, with the seal of the United States Circuit Court of Appeals for the Eighth Circuit and dated as aforesaid.

[SEAL.] E. E. KOCH,
Clerk U. S. Circuit Court of Appeals for the Eighth Circuit.

Allowed by

WALTER I. SMITH,
Judge United States Circuit Court of Appeals, 8th Circuit.

June 23d 1919.

Return to writ.

UNITED STATES OF AMERICA, *Eighth Circuit, ss:*

In obedience to the command of the within writ, I herewith transmit to the Supreme Court of the United States, a duly certified transcript of the record and proceedings in the within entitled case, with all things, concerning the same.

In witness whereof, I hereto subscribe my name, and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit at office in the city of St. Louis, Missouri, this twenty-second day of July, A. D. 1919.

[SEAL.] E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

(Endorsed:) No. 5166. United States of America, plaintiff in error, vs. William E. Rogers et al., defendant in error. Writ of error from Supreme Court, U. S. Filed June 24, 1919. E. E. Koch, clerk.

89 THE UNITED STATES OF AMERICA.

To, William E. Rogers, V. B. Short, H. L. Wilson, S. F. Miles, George N. Upham, Bryan Banta, J. G. Mings (Minga), Henry Zajic, Curtis V. Yoh, Mary Z. McCrillis, J. G. Detling, and G. H. Scripps, greeting:

You are hereby cited and admonished to be and appear in the United States Supreme Court at Washington, District of Columbia, sixty days from and after the day this citation bears date, pursuant to a writ of error, filed in the clerk's office of the United States Circuit Court of Appeals, 8th Circuit wherein the United States of America is plaintiff in error, and you are defendants in error, to

show cause, if any there be, why the judgment rendered against the said plaintiff in error, as in said writ of error mentioned, should not be corrected, and why speedy justice should not be done the parties in that behalf.

Witness, the Honorable Walter I. Smith, Judge of the United States Circuit Court of Appeals, 8th Circuit, this 23d day of June, in the year of our Lord one thousand nine hundred and nineteen.

WALTER I. SMITH,
Judge of the United States Circuit Court of Appeals, 8th Circuit.

Receipt of a copy of the foregoing citation is hereby acknowledged and further service thereof is hereby waived on behalf of defendants in error W. E. Rogers, V. B. Short, Geo. N. Upham, J. G. Detling, and G. H. Scripps, this 2nd day of July, A. D. 1919.

GEORGE S. DOWNER,
Albuquerque, N. M.

Receipt of a copy of the foregoing citation is hereby acknowledged and further service thereof is hereby waived on behalf of defendants in error H. L. Wilson, Bryan Banta, and J. C. Mings (Minga), this 7th day of July, A. D. 1919.

J. H. JACKSON,
Artesia, New Mexico.

(Endorsed:) U. S. Circuit Court of Appeals, Eighth Circuit. No. 5166. United States of America, plaintiff in error, vs. William E. Rogers, et al. Citation and acknowledgments of service. Filed July 19, 1919. E. E. Koch, clerk.

90 (Clerk's certificate.)

United States Circuit Court of Appeals, Eighth Circuit.

I, E. E. Koch, clerk of the United States Circuit Court of Appeals for the Eighth Circuit, do hereby certify that the foregoing contains the transcript of the record from the District Court of the United States for the District of New Mexico, as prepared and printed, under the rules of the United States Circuit Court of Appeals for the Eighth Circuit, under the supervision of its clerk, and full, true and complete copies of all the pleadings, record entries and proceedings, including the opinion, had and filed in the United States Circuit Court of Appeals, except the full captions, titles, and endorsements omitted in pursuance of the rules of the Supreme Court of the United States, in a certain cause in said Circuit Court of Appeals, wherein The United States of America was plaintiff in error, and William E. Rogers, et al., were defendants

in error, No. 5166, as full, true, and complete as the originals of the same remain on file and of record in my office.

I do further certify that the original writ of error with the clerk's return endorsed thereon and the original citation with acknowledgments of service endorsed thereon are hereto attached and herewith returned.

I do further certify that on the thirty-first day of May, A. D. 1919, a mandate was issued out of said Circuit Court of Appeals in said cause, directed to the judges of the District Court of the United States for the District of New Mexico.

In testimony whereof, I hereunto subscribe my name and affix the seal of the United States Circuit Court of Appeals for the Eighth Circuit, at office in the city of St. Louis, Missouri, this twenty-second day of July, A. D. 1919.

[SEAL.]

E. E. KOCH,
Clerk of the United States Circuit Court of Appeals for the Eighth Circuit.

(Endorsed on cover:) File No. 27222. U. S. Circuit Court of Appeals, 8th Circuit. Term No. 467. The United States of America, plaintiff in error, vs. William E. Rogers, et al. Filed July 28th, 1919. File No. 27222.